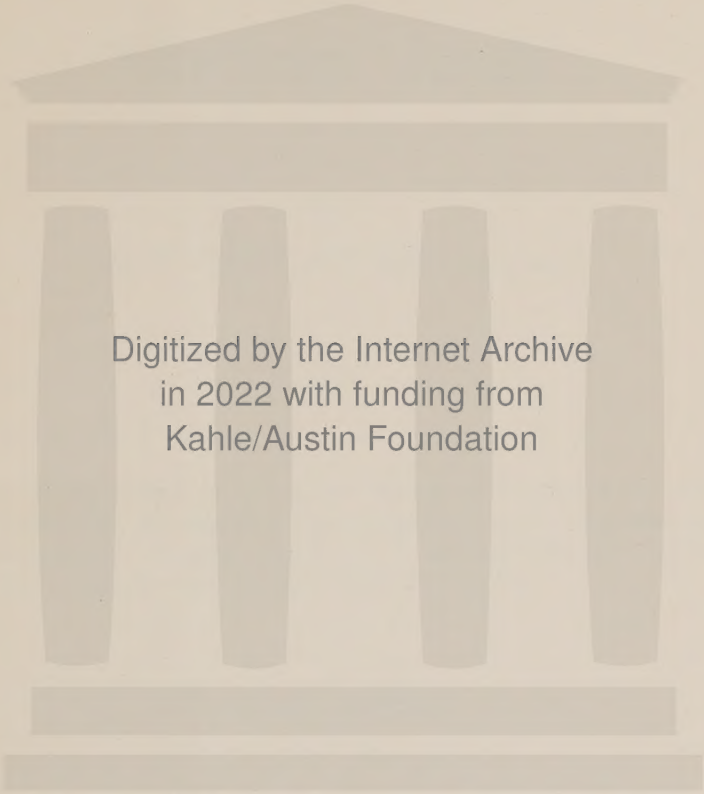
The Ethics

of the

Shulhan 'Aruk

By

DR. ITZEHAK SPECTOR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The Ethics

of the

Shulhan 'Aruk

By

DR. ITZEHAK SPECTOR, M.A., PH.D.

The Shulhan 'Aruk is a legal codification of the laws of the Bible and halakic part of rabbinical literature, together with the *minhagim* ("local customs") of legal significance of the Sephardic and Ashkenazaic Jews of the sixteenth and seventeenth centuries.

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DUE to the fact that Dr. Itzehak Spector chose the Ethics of the Shulhan 'Aruk as his subject for a Doctor's dissertation in his candidacy for the Ph.D. degree at the University of Chicago, June, 1928, we now have available, for the first time—especially in English—the gist of the ethics of Judaism based on this code.

As a legal code it was generally supposed to have little or no ethical value. Hence it has never previously been treated scientifically from an ethical standpoint. The contribution, therefore, in this dissertation, is to the history of ethics. It consists, first, in presenting the ethical background of the code; second, in presenting the ethical motive and psychology of the compiler who selected and decided upon the laws of the code in the light of his century; and, third, in making evident that the summum bonum of ethical life as expressed in the code is holiness. The contribution consists further in translation. Practically none of the material quoted in this work has ever before been translated into English. In a few cases attempts at translation have been made previously, but these are neither consecutive nor correct.

It is hoped that this work, which has escaped the fate of remaining in hiding in academic libraries or experts' portfolios, will become available and will be accepted for class room work in Colleges and in the adult classes of the Sabbath and Sunday Schools of the land.

Doctor Spector has made a contribution to Jewish literature and learning, that should be appreciated by all.

—PUBLISHER.

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PREFACE

THIS work is an effort to interpret the ethics of the *Shulhan 'Aruk*.[1] Preliminary to the main discussion, it is essential that we attempt to define ethics, particularly Jewish ethics, inasmuch as the ethics contained in the *Shulhan 'Aruk* is Jewish, notwithstanding the fact that many elements thereof are of universal significance and application, even in modern times. While it is manifestly impossible to give an exact, comprehensive, and complete definition of ethics,[2] the following will serve as an introduction to our discussion.

Ethics is the science of morals and treats, therefore, of conduct or way of life. Ethics may be regarded from various standpoints and classified accordingly. Thus we may consider theoretical and applied ethics, philosophical ethics or religious ethics. Further, ethics may be classified according to profession, creed or race.

Typical of the ethics of a race is Jewish ethics, which has its source in the fundamental principles of Judaism as expressed in the literature and life of the Jews. Therefore Jewish ethics draws the principles, which govern the conduct of adherents of Judaism, together with the aims and ideals for which they should strive. Jewish ethics may be classified as Biblical, Apocryphal,[3] and Rabbinical. However Rabbinical ethics is practically synonymous with Jewish ethics, inasmuch as rabbinical literature not only has absorbed the principles and ideals of preceding basic sources of Judaism, but has enlarged the scope thereof as well. Humanitarian laws of righteousness constitute the basis of Rabbinical ethics,[4] which is not confined solely to the Jews, but which

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[1] *Shulhan 'Aruk* or *Prepared Table* is so designated because it sets forth laws and principles in a simple form, easily understood by all.

[2] See *Everett, W. G.*, Moral Values, Henry Holt and Co., New York, 1925, p. 8.

[3] See *Hughes, H. M.*, The Ethics of Jewish Aprocryphal Literature, Robert Culley, London.

[4] "Not every ethical remark or opinion quoted in that literature [Rabbinical] can . . . be regarded as an index of the standard of Talmudical ethics, but such opinions only can be so regarded which are expressed with authority and which are in harmony with the general spirit that pervades the Talmudic literature." See *Mielziner, M.*, Introduction to the Talmud, Bloch Publish. Co., New York, 1925, p. 268. See also *Lazarus, M.*, The Ethics of Judaism, Jewish Publication Society of America, Philadelphia, 1900, Part I, pp. 12-13.

embraces all humanity, love of man being emphasized at all times. Thus we find the statement of Ben Azzai: "The Thorah, by beginning with the book of the generations of man,[5] laid down the great rule of the Law: 'Love thy neighbor as thyself'."[6] Further there is the admonition of Hillel, "Love the creature,"[7] and R. Joshua's denunciation of "hatred of the creature."[8] Man is admonished to walk in the way of God,[9] for He is the source of all moral law and the ideal of perfect morality. Like Him, man should show mercy and beneficence.[10] Thus the principle of fundamental importance in Rabbinical ethics is that moral perfection is an expression of God and His Law. In other words, Jewish ethics is normative science of human behavour—"Imitatio Dei." The line of demarcation between ethics and religion, therefore, becomes very faint, for the moral worth of a given action is determined by the motive which initiated it.[11]

The laws and rules of conduct for spiritual, moral and religious guidance in all affairs of life, which are codified in the *Shulhan 'Aruk,* chiefly a rabbinical code, although not based upon ethical principles in every instance, nevertheless, give expression to Jewish ethics.

In presenting the ethics of the laws codified in the *Shulhan 'Aruk,* we did not discuss every law, since many of them manifestly had no ethical significance. We discussed representative laws from "Yoreh Deah," "Eben-Haezer," "Hoshen Mishpat" and practically all the laws of "Orah Hayyim." It is our opinion that the selected laws are based upon underlying ethical principles, which exemplify the spirit of the code.

The primary sources for our interpretation of the aforesaid code are the *Shulhan 'Aruk,* the *Bible,* the *Mishnah,* the *Talmuds,* the *Yad-Hahazakah* by Maimonides, *Beth Joseph* by Caro, and the *Tur* by Jacob ben Asher (Baal Haturim). As our bibliography indicates, secondary

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[5] Gen. v. 1.
[6] Lev. xix. 18; Gen. R. xxiv., end.
[7] Aboth i. 12.
[8] Ib. ii. 11.
[9] Deut. xi. 22.
[10] Sifra, Deut. 49; Mek., Beshalah, to Ex. xv. 2; Sotah 14a, with reference to Deut. xiii. 5.
[11] Sifra, Kedoshim, iii. 2; B. Metzia 58b; Comp. "God desires the heart;" Sanh. 106b; Men. xiii. 11. See also *Smith, J. M. P.,* The Moral Life of the Hebrews, University of Chicago Press, p. vii; and *Case, S. J.,* Jesus—A New Biography, U. of C. Press, 1927, p. 193.

source material is very meager, consisting chiefly of a few scattered articles in Hebrew, English and German. Very little historical literature is available.

We found it preferable to make our own English translation from the Hebrew, there being no English translations of the *Shulhan 'Aruk,* with the exception of "Hoshen Mishpat" and parts of "Yoreh Deah" and "Eben-Haezer" by Rabbi J. L. Kadushin.[12] These are unsatisfactory as translations, because of omissions, insertions by the translator, and a tendency to refer to the Talmud or other original sources, rather than to the *Shulhan 'Aruk.*

In this connection, we desire to call attention to our method of quoting from the *Shulhan 'Aruk* by reference to Book and Chapter, but not by paragraph. We deemed this method better suited to the type of work.

Our discussion is divided into five parts. In Part I, The *Shulhan 'Aruk,* we survey our field. In Part II, *Individual Ethics,* we consider laws, which have to do with ethical duties of a personal nature. Part III, *Social Ethics,* is concerned with duties essential to social relations. Part IV, *Civil Ethics,* gives attention to the underlying ethical elements of court procedure. Part V is our *General Summary.*

Our purpose in treating this subject is twofold. We desire to show that the *Shulhan 'Aruk* is not a mere collection of dry laws, but a code based upon practical ethical considerations and hence of vital human interest. Further, we also desire to make manifest the powerful influence which this code had in shaping Jewish life and preserving Judaism.

Indebtedness. We wish to express our gratitude and indebtedness to Professor Louis L. Mann for pointing the way to worthwhile accomplishment by suggesting the subject of this dissertation and for guidance, constructive criticism in completing the work. We also wish to thank Professors Martin Sprengling and William C. Graham of Oriental Languages and Their Literatures at the University of Chicago, and

[12] Rabbi J. L. Kadushin, חשן המשפט Jewish Code of Jurisprudence, Parts I, II, III, IV, V and VI, The Jewish Jurisprudence Co., Fourth Edition, New Rochelle, N. Y., 1923.

Since the above was written a painstaking and satisfactory translation has appeared. Rabbi Solomon Ganzfried: "Kitzur (abridged) Shulhan 'Aruk," Hungary, 1870, translated by Hyman E. Goldin, LL.B., The Star Hebrew Book Co., New York, 1928.

Professor Dr. Joseph Klausner of the Hebrew University at Jerusalem, for their painstaking reading of our dissertation and for their valuable suggestions.

PART I

THE SHULHAN 'ARUK

PART I

THE SHULHAN 'ARUK

THE *Shulhan 'Aruk* is a product of almost 2000 years of Jewish life. It is a codification of the laws and customs of the *Bible. Mishnah* and *Talmud,* as standards, and also of the laws and customs of the post-Talmudic literature as well. Likewise its compiler has taken cognizance, consciously and unconsciously, willingly and unwillingly, of the local practices and customs, approved by various rabbis. Hence, the *Shulhan 'Aruk* is a codification of the laws of the Bible and the halakic part of rabbinical literature, together with the minhagim (local customs) of legal significance of the Sephardic and Ashkenasaic Jews of the sixteenth and seventeenth centuries.

The codifier of this important work, R. Joseph Caro (1488-1575), the last of those to give attention to rabbinical codification, has exerted a greater influence upon Judaism than any of his predecessors, even Maimonides.[1] Originally of Spain, he and his parents left that country in 1492, at the time of the general banishment of the Jews, and after many wanderings, during the course of which he became a mystic under the influence of Solomon Molkho (Adrianople), he made his way to Palestine, settling in the town of Safed. Here he enjoyed the fame of an authority of Judaism, unequalled since Maimonides.

In Palestine he completed and published his greatest work, *Beth Joseph.*[2] He realized, however, that there were many, whose knowledge

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[1] Maimonides (Moses ben Maimon) was a great Jewish scholar and philosopher, He was born at Cordova, March 30, 1135, and died at Cairo, Dec. 13, 1204. Maimonide's first important work was an Arabic commentary on the Mishnah (Siray), 1168. This was followed by the *Book of Precepts,* in Arabic, which is to be considered as an introduction to the gigantic work which followed in 1180, in Hebrew, under the title *Mishne Thorah* (Second Law), also called *Yad ha-Hazakah* (the *Strong Hand*). His chief claim to fame, however, is his *Moreh Nebukim* or *Guide of the Perplexed* (Arab. Dalalat alhairin), a philosophical and rationalistic work on exegesis, finished in 1190.

[2] The *Shulhan 'Aruk* has made Caro known to posterity, but by far his greatest work is Beth Joseph, which entitles him to the rank of the greatest of the Talmudists. He spent twenty years upon the composition of the book, beginning it in 1522 at Adrianople and completing it in 1542 at Safed. Its publication, however,

was not sufficient to enable them to grasp the principles of the scholarly work. Therefore, in 1554, in his old age, he compiled the *Shulhan 'Aruk* or *Prepared Table.*

In arrangement of this monumental work he followed Jacob ben Asher's Arba'ah Turim,[3] but made his work more concise and quoted no authorities. He did not consider this a very important work, regarding it as a simplification of the law adapted to immature comprehension תלמידים רטנים or "Young Students")[4] and always giving precedence to *Beth Joseph* when referring to his writings. But the *Shulhan 'Aruk* had greater worth and importance than its codifier realized, for the simplification of the law had become a vital necessity with the passing of time, the changing attitude toward the law, and the varying needs of the people.

During the compilation of the Talmud and immediately thereafter, there was a great movement to increase the Law, יגדיל תורה ויאדיר by additional interpretations and explanations. But after the sealing of the Talmud, and some later interpretations had been compiled and the Jews were dispersed throughout the world, there arose a tendency among the leaders of the Jewish thought to systematize and simplify the Talmudic literature. When the Jews were in Palestine, the chief existing

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was delayed to some date between 1550 and 1559. *Beth Joseph,* as well as the *Shulhan 'Aruk,* is modelled after *Arba'ah Turim* by Jacob ben Asher (died before 1340). However, *Beth Joseph* is longer and more comprehensive, inasmuch as it goes back to Talmudism and halakic Midrashim. In addition to examining the authorities of the *Tur,* it discusses many others as well. From the Talmud to the work of Isserlin (a pet name for Israel, the foremost Talmudic authority of Germany in the first half of the fifteenth century; died in 1460) inclusive, thirty-two authorities are the subject of critical scholarly comment. This work surpasses all others, even Maimonides, in extent and completeness, including as it does, the vast field of post-Talmudic literature which other authors scarcely touched.

[3] Jacob ben Asher (Ba'al ha-Turim) was a native of Germany, but died in Toledo, Spain, some time before 1340. As a young man he began his *Arba-ah Turim,* which was the standard code for Sephardim and Ashkenazim until the publication of the *Shulhan 'Aruk.* During the fifteenth century, no work, except the Bible, was more popular. Within a period of twenty years (1475-95) two editions of the whole and seven editions of parts were printed. The *Arba'ah Turim* is the first work printed in Hebrew. For almost five centuries this book, now in the library of the Jewish Theological Seminary of New York, has no other recorded history than the dates of the Papal Inquisition which it carries. It was examined three times for religious offense and were inscribed by the examiners as following: "Revisus per me, Leurentius Fraguelius, 1575;" Frater Hipploytus Ferrarensis vidit, 1601," and "Revisto et corretto per mi, fra Luigi da Bologna, 1609."

[4] See *Shulhan 'Aruk,* Introduction.

problem was how to adapt themselves to the Law,[5] but when they were scattered, the problem was reversed and it became a question as to the means of adjusting the law of the life of the Jews in the various countries, in which they lived, inasmuch as local customs became of necessity a great factor in Jewish life.[6] It even became proverbial that "a local custom breaks a law."[7] Some even went so far as to assert that the minhag (local custom) was the law.[8]

If a Jew desired to live up to the strict letter of unmodified rabbinical law, he had to be well-versed in the entire Talmud, and inasmuch as the Talmud is poorly classified,[9] it was necessary to search the whole work in order to find a given law. This fact caused leaders of Judaism to fear that the Talmud might fall into disuse because of its vast extent and the inconveniences of its arrangement. The simplification of so vast a work, however, was an exceedingly difficult task. Nevertheless, scholars were not lacking, who attempted to produce codifications, which would be more usable. One of these scholars was Hai Gaon (998-1038), who discussed commercial law and oaths. Passover (Pesah) and other holy days were treated by Isaac ben Ghayyat of Lucena (1038-1089). More important was the work of Isaac ben Jacob Alfasi (1013-1103), who compiled a "Talmud" in brief, which became the basis for treatises and discussions, and who contributed much to fixing the norm of the Halaka. Two other scholars rendered important service: Yehuda ben Barzilai (end of 11th and beginning of 12th century) in his three books

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[5] See *Klausner Joseph,* חלק א, הסטוריה ישראלית Odessa 1916, 2nd ed. pp. 8-9.

[6] The custom of the country was the standard of Judgment in Spain and Portugal, authorities even varying from district to district, Maimonides, Nahmanides, and Asher ben Yehiel being the ones most followed. The banishment of the Jews from the Iberian peninsula forced many to seek refuge in eastern communities. Many of them were men of great learning and then they came into communities which practiced customs entirely unfamiliar to them; the question as to precedence of newcomer or native became vital. Further, the spread of printing had made books accessible to many people of imperfect education, who, nevertheless, deemed themselves competent to decide points of law. Thus a practically anarchical condition arose, destructive alike to religious stability and race integrity.

[7] See *Rab Zair,* כרך ה', השלח, לתולדות השלחן ערוך" והתפשטותו Berlin 1898, p. 402.

[8] See *Darke Moshe* on *Tur Yoreh Deah,* 116. See also *Solomon Luria,* Yam Shel Shelomoh, to B.K.x.42. *Shulhan 'Aruk,* Orah Hayyim, Chapter 619. 1., etc.

[9] However, the imperfect classification is considered as great cultural progress for the time. "La division du travail [Talmud] est le symbole du progres, la preuve certaine d'une culture avancee." See *Weill Elie,* Essai sur la Medecine legale du Talmud Strasbourgh, 1922, p. 7.—These Presentee pour le Doctorat de l'universite de Strasbourg.

on marriage, civil law, and ritual, respectively, and Abraham ben Isaac of Narbonne (1110-1179), who composed the *Sepher ha-Eshkol* in four parts.[10]

However, the most complete and scientific compilation and the code of outstanding merit was *Yad ha-Hazakah* (*Strong Hand*) by Maimonides (1180), which was an attempt to harmonize Talmudical Judaism with the prevailing philosophy of Aristotle, which arose under the influence of Mohammedan theology. Inasmuch as it summarized completely all Jewish law, it was intended to take the place of the Talmud and all other material on Biblical and Talmudical law. It consisted of fourteen books (14 =יד), divided into halakoth, chapters and paragraphs. The extent of the work, and its scientific treatment might well have made it the universally accepted authority in Judaism. However, it failed of this purpose, because the respective laws are merely stated without mention being made of the sources from which they are drawn or the facts, which influenced the compiler's decisions.[11]

There were other attempts to codify the Talmud and later interpretations, the main purpose of these efforts being an attempt to produce a code suited to pervailing conditions, which would preserve the integrity of the nation. Thus we find Jacob ben Asher saying in the introduction to the *Tur Orah Hayyim* that he was induced to undertake so vast a work by a desire to produce a code suited to the life of the time. Also Joseph Caro in his introduction to *Beth Joseph* states that such a work was necessary, because the expulsion of the Jews from Spain and the invention of printing gave cause to fear that legal and ritual observances of religious law would fall into disuse. The very controversies, which these works produced, kept the Jews alert and cog-

[10] Three parts of the *Ha-Eshkol* were published by M. Auerbach, Halberstadt, 1867-68. The fourth part, in manuscript form, is in the library of the Alliance Israelite of Paris (Jewish Encyclopedia, Vol. I. p. 111).

[11] The Jews required that every law be referred either to the Bible or the Talmud as authority. Even the Talmudists (Amoraim) were compelled to recognize the demand and sometimes even went so far as to take verses out of their context in order to prove a given point. The fact that Maimonides did not quote authorities, is, in our opinion, evidence that the Jews of his days were for the most part learned and that he believed, therefore, that his allusions would be easily recognized. This omission of authorities by Maimonides paved the way for the *Shulhan 'Aruk,* which likewise fails to quote authorities. During the three centuries and a half, which intervened between the two codes, people had become more or less accustomed to respect the judgment of a scholar, who was universally recognized as an authority in Judaism.

nizant of the significance of Judaism and at the same time paved the way for the *Shulhan 'Aruk*.

The *Shulhan 'Aruk* was originally intended, as the author states in his introduction, for "young students" or those for whom comprehension of *Beth Joseph* was difficult. However, because of its simplicity, because it added laws of predecessors and because it absorbed local customs, it became the accepted and practically official code for rabbinical law.

It must not be thought that this codification was immediately accepted. Even a man of such erudition as Caro could not codify the law so that it would fit all local conditions.[12] But from all lands, where Jews gave earnest and sincere thought to the work, came suggestions. Especially in Poland, where were living the most Jews at the time, among whom were some of the most scholarly rabbis, attention was given to the rounding out of so worthwhile a production, which needed certain alterations, modifications, and supplements to fit it to universal Jewish needs and to make it authentic codified Jewish law.[13]

Outstanding among those, who contributed to the process of making the *Shulhan 'Aruk* a faithful reflection of Jewish thought and customs, was R. Moses ben Israel Isserles, a native of Cracow, Poland. Isserles stood in the same relation to the Ashkenazim that Caro did to the Se-

[12] The difference of environment may also account for the fact that the Jews have given more study to the Talmud of Babylon, which is more adapted to the life of the Diaspora, whereas the Talmud of Jerusalem is more suited to Palestine. Further, this may explain why the Jews for a few centuries neglected to study the Bible, especially the Prophets, as ardently as the Talmud. It was not until the middle of the eighteenth century, with the advent of the "Hascalah Period," that the European Jews began to lay stress on the importance of the study of the Bible, inasmuch as this was done at the expense of the study of the Talmud.

[13] The classical commentators of the *Shulhan 'Aruk*, all of whom are of the seventeenth century and Polish Talmudists, are as follows: Moses Lima ben Isaac, David ben Samuel haLevi, Sharbethai ben Meir ha Cohen, Abraham Abele Gombiner, and Samuel ben Phoebus of Waydyslaw.

Other notable commentators, supplementers and Talmudists of varying opinions are Solomon Luria, Yom-Tob Zahaln, Mordecai Yafe (whose *Lebushim* seemed on its appearance, likely to displace the *Shulhan 'Aruk*). Falk, Meir ben Gedaliah, MaNaRaM of Lublin, Samuel Edels, Yom-Tob Lipman Heller, Hayyim Yair Bacharch, etc.

Also worthy of mention are Menahem Krochmal, Gershon Ashkenazi (Krochmal's son-in-law), and Efraim ben Aaron haCohen of the second half of the seventeenth century. The latter tells us in his *Sha'ar Efraim* (No. 113, p. 81a, bottom) that in Buda, where he served as rabbi, a resolution was incorporated in the congregational archives to the effect that the acceptance of a rabbi was conditioned by his willingness to make decisions in accordance with the *Shulhan 'Aruk*.

pharadim. Caro, a Sepharadic, had failed to include the Ashkenazaic minhagim. Hence Isserles contended that Caro's "Prepared Table" was not completely "prepared" and provided, therefore, his *Mappah* or *Tablecloth.* The *Mappah* consisted of notes ("haggaoth"), criticising and supplementing the original text of the *Shulhan 'Aruk,* and were first inserted in 1571 in the Cracow edition. Thus by the aid of this and similar amplifications the *Shulhan 'Aruk* became in time the standard guide, implicitly followed by Orthodox Jews to the present time.[14]

The language of this vast production is simple and pure post-Biblical Hebrew. The vocabulary is extensive and gives evidence of great knowledge and experience in various scientific fields on the part of the compiler.

The mechanical structure shows much skill in logical and lucid arrangement. It consists of 1704 chapters,[15] which are divided into paragraphs, each paragraph dealing with a specific law. The chapters are grouped into four books: *Orah Hayyim* or *Path of Life, Yoreh Deah* or *Teacher of Knowledge, Eben-Haezer* or *Stone of Help,* and *Hoshen Mishpat* or *Shield of Judgment.* The first of these treats of the ritual, of the Sabbath, of the holy days and the fast days. The second deals with Shehitah (Slaughter), forbidden food, laws of agriculture, and customs of mourning. The third states the laws of marriage and divorce. The fourth is a treatise on civil and criminal law. Although no authorities for these laws are mentioned, they are stated in a form universally accepted as the standard for Jewish life.

Before proceeding to our discussion of the ethics of the *Shulhan 'Aruk,* we wish to point out that for the most part we have to do with practical rather than theoretical ethics. The emphasis is not upon ideals to be attained at some remote date, but chiefly upon practical results which were to be secured immediately.

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[14] A veritable battle raged around the *Shulhan 'Aruk* for more than a hundred years and it was not until the middle of the seventeenth century, which date also marks the beginning o fthe commentaries to it, the period of the so-called Ahronim, that it attained a certain stability. Not until the eighteenth century was the authority of the *Shulhan 'Aruk* established beyond question.

[15] The number of Chapters in each of the four books is as follows: Orah Hayyim, 697; Yoreh Deah, 403; Eben-Haezer, 178; Hoshen Mishpat, 426.

PART II

INDIVIDUAL ETHICS

PART II

INDIVIDUAL ETHICS

I. Introduction

THE strongest human propensities are egoistic, and arise from the desire for personal well-being in all its phases. Uncontrolled, they result in the grossest selfishness, destructive alike to the individual and to society. On the other hand, when properly directed, they are instrumental in developing such recognized virtues as temperance, judgment, purity, etc. While self-interest is the motivating impulse in securing advancement through these virtues, selfishness, as it is commonly understood, is not present, for this element implies a limitation of interests, conducive to an indifference to obligations to society, entirely incompatible with ethical self-advancement.

To promote one's welfare ethically is a duty of supreme importance. Not only does the individual reap the benefit of material and spiritual rewards, but society is advanced through him. By making himself a more valuable member of the social order he is in a position to promote and does promote social welfare.

The Jews recognized early the ethical significance of man's duties to himself, realizing that the fulfillment of these duties was essential to the best moral interests of both the individual and society. However, as we examine Jewish laws laid down for the advancement of human welfare, we must remember when we seek to determine the underlying ethical principles, that ethical ideas undergo great changes with the passing of time and changing of customs. What was once an accepted standard of conduct, instrumental in advancing well-being at a given era, becomes, at a later date, an absurd formality, the usefulness of which has long since ceased, because conditions are entirely altered.

In considering the advancement of human welfare from the standpoint of Jewish ethics, it must be born in mind that from the earliest times, Jewish life was permeated by the desire to act in accordance with the will of God. While from age to age there were varying conceptions of what constituted the will of God and adherence thereto, the devout

Jew strove at all times to direct his life in accordance with his interpretation of divine requirements. As he understood it, ethical self-advancement was possible only through identification of his will with the will of God. In achieving this identification of wills, he governed his life by laws, which in his opinion were of divine origin.

In veiw of this belief in divine guidance, it is but natural that any Jewish code should indicate worship as the initial duty of man. Hence in the *Shulhan 'Aruk,* which is predominantly a codification of written and oral law, the keynote of man's duty to himself is sounded by the opening admonition of Chapter 1, one of the most impressive exhortations of the entire work.

II. Worship

"Let man[1] strengthen himself like a lion, rise early in the morning for the service of his Creator—let him awaken the dawn" (that is, rise before day dawns).[2]

This serves as an inspiring introduction to the chapters which follow. In these chapters, man is directed, in a series of simple rules, in regard to all the activities of the day, no detail, however small, being overlooked, until at length he is brought back to rest again. The animating spirit of courage pervades this exhortation to worship, so that if a man follow it with his whole heart, the sustaining strength of courage and service to God set their mark upon his day, determining the atmosphere thereof, his conduct in all matters, whether they concern himself or society, and hence shaping his life. Service to God, even before taking food, becomes then the initiatory impulse to service to one's self, one's family, and all humanity.

The duty of worship did not cease with the morning service or prayer. At stated intervals during the day, service or prayer was to be offered regularly. Thus there was the afternoon prayer or Minha[3] and

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[1] In the *Shulhan 'Aruk* "man" usually means Jew.

[2] Orah Hayyim, Chapter 1. Comp. Aboth v. 23: "Yehuda ben Thema said: Be bold as a leopard and light as an eagle and swift as a gazelle and strong as a lion to do the will of the Father which is in Heaven." Compare also the first paragraph of the first chapter "Rules for employing our Time" in Jeremy Taylor's *The Rule and Exercises of Holy Living* (1650): "In the morning, when you awake, accustom yourself to *think first upon God,* or something in order to His service, . . . and sometimes be curious to see the preparation which the sun makes, when he is coming forth from his chambers of the east."

[3] Orah Hayyim, Chapters 232-234.

the evening prayer or Maariv.[4] These, with the morning worship, constituted the three standard prayers or services of the day.[5] In addition there was a prayer to be offered even after one was in bed, "קריאת שמע" In preparation for these prayers, man was enjoined to pause and give thought to preparing his heart before uttering them that they might be expressions of spiritual value rather than a meaningless repetition of words.[7] "The prayer of one who treats it as a perfunctory obligation," said Rabbi Eliezer the Great, one of the most outstanding Thanoim, "is not a means of grace." (Ber. 28.)

Prayers or blessings were also regularly pronounced before partaking of food, especially bread. Herewith follow the blessings to be spoken for each type of food.

(Bread = לחם) ברוך אתה ה' אל' מלך העולם, המוציא לחם מן הארץ

Blessed art thou, O, Lord our God, King of the Universe, who bringest forth bread from the earth.

(Water = מים) ברוך אתה ה' אל' מלך העולם, שהכל נהיה בדברו

Blessed art thou, O, Lord our God, King of the Universe, by whose word all things exist.

(This blessing is also pronounced on partaking of meat, fish, eggs, cheese, etc., or drinking any liquor except wine.)

(Wine = יין) ברוך אתה ה' אל' מלך העולם, בורא פרי הגפן

Blessed art thou, O, Lord our God, King of the Universe, who createst the fruit of the vine.

(Vegetable =ירק) ברוך אתה ה' אל' מלך העולם, בורא פרי האדמה

Blessed art thou, O, Lord our God, King of the Universe, who createst the fruit of the earth.

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[4] Ibid. Chapters 235-237.

[5] Rabbi Samuel ben Nahmani says the three prayers are for the three changes of the day: sunrise, noon, sunset (Yer. Ber. IV. 1). The custom of speaking three prayers daily, namely, Shahrith, Minha, and Maariv, was apparently already in vogue among the ancient Hebrews. Thus we find a definite statement in Psalms 55:18: "Evening, and morning, and at noonday, will I complain, and moan; and He hath heard my voice." Likewise in Daniel, the statement is made ". . . now his windows were open in his upper chamber toward Jerusalem—and he kneeled upon his knees three times a day, and prayed, and gave thanks before his God, as he did aforetime." (6.11). Undoubtedly he was not the only one to practice devotion.

[6] Orah Hayyim, Chapter 239.

[7] Ibid. Chapters 93-98.

ברוך אתה ה' אל' מלך העולם, בורא פרי העץ (פרות = Fruit)

Blessed art thou, O, Lord our God, King of the Universe, who createst the fruit of the tree.

ברוך אתה ה' אל' מלך העולם, בורא מיני מזונות (מזונות = Cake)

Blessed art thou, O, Lord our God, King of the Universe, who createst various kinds of food.

(This prayer is offered before partaking of food, other than bread, prepared from any of the "five species of grain." (wheat, barley, rye, oats and spelt.)

In addition to prayers regularly offered, there were also those suited to special occasions. Thus when one witnessed some natural phenomenon, awe-inspiring, majestic or beautiful, thanks were to be rendered to God.[8] Thanks were also due when one perceived a delightful odor.[9] There were prayers designated for the one who "walked in the way" or journeyed.[10] Likewise if one met a friend, whom one had not seen for a long time, a blessing was to be offered.[11] In any case these prayers were to be spoken reverently with full cognizance of their meaning.[12]

The practice of the aforementioned specific acts of worship did not mark the limits of Jewish efforts toward attainment of ethical self-advancement through identification with the will of God. Perfect identification necessitated the most complete development of all capacities, physical and intellectual, as well as spiritual and religious. The laws of guidance took cognizance of these by directions concerning physical and intellectual matters. Thus in the *Shulhan 'Aruk* emphasis is laid in the first instance upon the duty of self-preservation through the maintenance of good health by the proper care of the body.

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[8] Ibid. Chapters 226-229.

[9] Ibid. Chapters 216-218.

[10] Ibid. Chapter 90.

[11] Ibid. Chapter 225.

[12] In regard to *preparation* for prayer, see Ber. v. 1, Yer. Ber. iii. 4. Shab. 10a—based on Amos iv. 12 "Prepare to meet thy God, o Israel."; for *posture,* see 1 Kings viii. 48; Yer. Ber. iv. 5, Ber. 10b, Zohar, Balak, 195b, Yeb. 105b, Ber. 13a, Yer. Ber. 1.5, Yoma 53b.; concerning *time,* Ber. iv. 1, Ps. lxxii, 5, lv. 18, Ber. 9b, 29b, 32b.; *place,* Gen. xix. 27, Ber. 6b, "Yad." Thefillah, xi, 4, Yer. Ber. iv. 4; *duration of prayer,* Yer. Ber. iv. 1; Ber. 3a, 31a, 32b. See also *Orah Hayyim,* Chapters 1-134, 232-240. Concerning the origin, development, and content of Jewish prayers in general, see *Prof. Dr. Elbogen,* Der judische Gottesdienst in seiner geschichtlichen Entwicklung (Schriften der Gesellschaft zur Forderung der Wissenschaft des Judentums: Grundeisz der Gesamtwissenschaft des Judentums). Translated into Hebrew by והעבודה בישראל: ברוך מרופניה הוצאות דביר, מאת פרופ, ד"ר יצחק משה אלבוגן מלה א', תולדות התפלה תרפ"ד,

III. Self-Preservation

The Jews considered the body worthy of care because it was created in the image of God, and hence might be regarded in the light of a sanctuary—"honoring it [the body] as the [sanctuary of the] image of God." (Hillel: Lev. R. xxxiv.)[13] Thus defilement of the body by uncleanliness or disease was unthinkable.

The Jews, however, were not the originators of sanitary laws nor the only observers of sanitary practices. Hygienic regulations were in vogue among other Semitic peoples, as well as among the Greeks and Romans. The point of difference was that with Semitic peoples, particularly the Jews, these laws were under priestly direction and thus a phase of religious observance, whereas non-Semitic peoples placed the laws under "medical supervision," and thus in the realm of the secular.

Among Greeks and Romans, hygienic practices were regarded as suited primarily to the wealthier and more influential members of a community, whereas the Jews took care of the individual, extending these practices to all classes.

The earliest European hygienic code[14] worthy of the name is the Salernum "Code of Health" of the twelfth century and published in 1480. Thus Jewish health regulations, which, were long before that time well established in the Talmud, antedate non-Semitic codes by many years.

European hygienic regulations were mainly instructive rather than obligatory,[15] whereas Jewish hygienic laws, having the same stamp of divine command as all other laws, were consequently obligatory and binding upon all.

1. *Hygiene.* Directions regarding the washing of the hands occupy a most prominent place in the *Shulhan 'Aruk.* We are safe in saying that no other hygienic code, ancient or modern devoted so much space or gave so much attention to details of personal cleanliness. We do not deem it necessary to quote at length the minute particulars of the nu-

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[13] See *Lauterbach J. Z.,* The Ethics of the Halakah, Reprint from Year Book of the Central Conference of American Rabbis, Cincinnati, 1913, pp. 16-19.

[14] An account of sanitary precautions is found in the twenty-second book of Homer's Odyssey.

[15] Shakespeare's father was twice fined (1552 and 1558) for violation of sanitary observances of the time. These violations, however, were of such a nature that the well-being of others was affected and had nothing to do with personal cleanliness in the strictest sense.

merous laws. The following, however, are illustrative of the importance assigned to this subject.

The hands had to be washed before and after eating[16] and "After the following things one must wash oneself: When one rises from bed, upon leaving the toilet or the bath, when one cuts one's nails, when one removes the shoes, when one touches the uncovered feet, when one scratches one's head, according to some rabbis, also when one walks between the dead (cemetery), or even touches a corpse, when one rids oneself of lice,[17] after cohabitation, when one touches a louse or the uncovered body."[18]

From the standpoint of modern sanitary ideas and practices, these habits of cleanliness seem a matter of course, and we wonder at the necessity of devoting so much space to such ordinary rules. But at the time of the promulgation of these laws, cleanliness and sanitation were little regarded, and washing in accordance with the directions given was distinctly at variance with universal practice. The fact that the Jews observed these rules, which embody the element of health conservation and the virtue of purity as exemplified by cleanliness, indicates a standard of living somewhat above the ordinary. While these rules may have been observed because they were presented in the form of commands and not because any ethical elements were recognized therein, nevertheless they anticipated the higher sanitary standards of future generations when cleanliness was to be placed on an ethical plane.

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[16] "One should not eat without washing his hands, even if he wishes to wrap his hands in a napkin or even if he eats with a spoon so that he does not touch the morsel, which he eats, for fear that he may inadvertently touch it. Even if one walks in the way and the time to eat arrives, and he finds not water and if he knows there is water at a distance of four miles (Here a mile is 2000 cubits), he must wait until he reaches that place; or if there is water less than a mile behind him, he must return, although his journey is urgent. But if there is water at the distance of a mile behind him and more than four miles before him, then he may wrap his hand in a napkin and eat his bread." (Orah Hayyim, Chapter 163).

"Washing the hand after eating is obligatory . . . If there is no water, it is permitted to wash with every beverage (except wine because of its importance), even oil, honey and milk, for they remove soil." (Ibid. Chapter 181).

[17] Even today in Russia and certain other European and Oriental countries, many of the lower classes are afflicted with lice. This is not regarded as a disgrace or an evidence of disgusting bodily filth and ridding oneself of them is done openly. People even assist each other in this operation. The point involved, however, is that no precaution is taken to wash the hands thereafter. Lest the Jews be guilty of this violation of cleanliness, they were commanded to wash.

[18] Orah Hayyim, Chapter 4.

2. *Dietary Laws.* Of the factors contributing to health, none is of more importance than food. As we may naturally expect, the *Shulhan 'Aruk* lays great stress upon dietary laws, which have had great importance and influence in the life of the Jews. It is not amiss, therefore, to consider their chief characteristics.

a. Choice of food. First they concerned themselves with the selection of foods, certain of which were classified as "unclean" and hence forbidden.[19] Foods were unclean for several reasons. For example, they might be regarded as producing disease, either because they were particularly prone to rapid decomposition, or because they were difficult of digestion. Then certain animals were looked upon as obnoxious in habits and possessed of undesirable traits, such as cruelty, which rendered their flesh undesirable as food, inasmuch as in eating it, one imbibed something of these characteristics.[20]

b. Preparation of food. (1) *Ritual of slaughtering.* The next important consideration was the proper preparation of food. In the case of meats, this naturally began with the slaughtering of the animals. This had to be done according to explicitly stated rules, which had as their purpose quick and cleanly killing with the minimum of suffering for the animal. "The knife must be sharp, smooth, and without any perceptible notch, and it must be thoroughly examined before the slaughtering, by passing first the finger and then the finger-nail over its edge and both sides.'[21] As we read further the laws of ritual slaughtering in the *Shulhan 'Aruk,* we cannot fail to be convinced that, while perhaps not absolutely humane, they require a method distinctly in advance of those generally employed and give definite consideration to the avoidance of unnecessary cruelty resulting from carelessness and brutality. Expert investigation has long proven the superiority of this method from a scientific standpoint. ". . . ritual slaughter," says Dr. N. E. Aronstam,[22] "is the most preferable method for two very weighty and incontrovertible reasons: (a) The total absence of suffering and agony . . . and (b) also from the standpoint of sanitation."

In order that the laws of the ritual should be strictly observed, the

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[19] Yoreh Deah, Chapters 13-17.

[20] See *iv Macc.* 5; *Nahmanides* on Lev. xi; *Maimonides,* "Moreh Nebukim," iii. 48; *Ibn Ezra,* Commentary to Lev. xi. See also *Spenser,* "De Legibus Hebraesrum, 1732, p. 121.

[21] *Yoreh Deah,* Chapter 1. Comp. Hul. 17b.

[22] Jewish Dietary Laws from a Scientific standpoint, Bloch Publish. Co., New York, 1912, p. 20.

Shulhan 'Aruk designated a trained expert or "shohet" as the only person permitted to perform the slaughtering.[23] No one liable to fail in proper performance of this rite by reason of mental or physical disability was eligible to this office of "shohet." In this connection Dr. Aronstam says: "The 'shohet' is indeed just as competent and efficient a meat inspector or veterinary as the government is capable of appointing. He is enabled by ritual inspection to recognize pathologic lesions in the entrails of the animal, and thus contributes no inconsiderable quota to the prevention of the disease and the maintenance of health."[24]

(2) *Rinsing and salting of meat.* The process of the preparation of meat, however, was not complete through the ritual of slaughtering. It was not "kosher" and hence fit for the Jewish table, until it had been subjected to a process of salting and rinsing, the purpose of which was to remove not only external blood and impurities, but internal as well.[25] This removal of blood was of prime importance and the rules regarding it were very stringent, the reason being the belief that blood was a form of life, hence partaking of it was the same as partaking of life. All Hebrew literature is replete with prohibition against the use of even the smallest amount.[26] Note the following: "A drop of blood found in the yolk of an egg is considered an indication that the process of hatching has already begun, and the egg is therefore forbidden."[27]

(3) *Meat and milk.* When the meat was thoroughly cleansed, there remained the process of cooking, which might still render it unfit. For example, it could not be cooked with milk or eaten with it. Although there is no explicit prohibition against this dietary combination in the Bible, the *Shulhan Aruk* contains the following statement: "The threefold repetition of the commandment prohibiting the seething of a kid in its mother's milk (Ex. xxiii. 19; xxxiv. 26; Deut. xiv. 21) refers to three distinct prohibitions: Cooking meat and milk together; eating such mixture; and deriving any benefit from such a mixture."[28]

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[23] Yoreh Deah, Chapter 1.

[24] *Aronstam, N. E.,* M. D., Jewish Dietary Laws from a Scientific Standpoint, Bloch Publish. Co., New York, 1912, p. 24.

[25] Yoreh Deah, Chapters 69-82.

[26] See Gen. ix. 4; Lev. iii. 17, vii. 26, xvii. 10, xix. 26; Deut. xii. 16, 23, xv. 23. It is also worthwhile to note that even in the medical science of the Talmud blood plays a purely negative part(B. B. 58b).

[27] Yoreh Deah, Chapter 66.

[28] Ibid. Chapter 87. Comp. Hul. 115b.

(4) *Meat and fish.* A further prohibition existed in regard to a diet combining meat and fish.

"Meat and fish should not be cooked or eaten together; for such a mixture is supposed to cause leprosy. It is, therefore, the custom to wash the mouth between eating a dish containing fish and one containing meat."[29]

3. *Discussion of Laws.* These dietary laws, as codified in the *Shulhan 'Aruk,* were, no doubt, the product of long practical experience and careful investigation, judging by the details of their exposition and the terminology employed. Their value has been demonstrated by the fact that under their influence, the Jew has had a surprisingly high standard of health as compared with other inhabitants of the same or similar regions. Even today, when he adheres to the dietary laws of his predecessors, he is likely to be less susceptible to bacterial diseases than many of his contemporaies. This general good health, together with the uniqueness of the dietary laws has been potent in preserving the racial integrity of the Jews and in setting them apart from nationalities in spite of persecutions and dispersal throughout the world.

It is not a matter of surprise that the dietary laws contributed so much to health in view of the extreme cleanliness, which was demanded in all handling of the food. Modern science has given its approval to processes described and followed at so early a date. For example, no known method of slaughtering is superior to the Jewish, which not only is governed by a strict regard for sanitary considerations, but is based upon an ethical principle of avoidance of cruelty,[30] scarcely considered by other peoples.

In regard to the combination of meat and milk, we believe that at least two ethical considerations were involved. In the first instance the seething of a kid in its mother's milk was a distinct violation of the sentiment of pity which the law so sedulously endeavored to cultivate. Sufficient cruelty is involved in the killing of a young and unusually helpless animal. The seething afterwards in the milk of the *mother* evinces an indifference toward suffering and a hardness toward sentiment, which is easily transferred to human relations and hence distinctly at variance with finer sensibilities.

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[29] Ibid. Chapter 117. Comp. Pes. 66b.

[30] According to Maimonides the reason why the Law forbade cruelty to animals, was to develop the sentiment of pity, which he characterizes as a generous quality of the soul.

In addition, both meat and milk, especially goat's milk (Prov. 27. 27), were considered very luxurious food elements. We are informed that milk was regarded as a food suitable for distinguished guests (Judges 4.9);[31] while evidence that meat was held as one of the luxuries of diet is furnished us by the rabbis. These inform us that "a stubborn and rebellious son" was one, "who stole, *ate* a טרטימר (about three ounces) *of meat* and drank half a לוג (a liquid measure equal to the contents of—or the space occupied by—six eggs) of wine." Thus it is obvious that a combination of two such food elements would be regarded as excessive luxury, and one who partook thereof would be looked upon as an epicure.[32]

As to the combination of meat and fish, investigation has failed to reveal whether science has shown such a dietary combination to be harmful. It may be based upon a mere superstition, or it may be that at one time experience seemed to indicate that this diet was injurious. In any event, those, who promulgated the law, acted in accordance with their conception of duty in forbidding anything which they deemed detrimental to health.

Summarizing, we may say that through their dietary laws, the Jews recognized and fulfilled to a high degree the personal duty of self-conservation—a fact most noteworthy and praiseworthy in view of the uncleanly handling and preparing of food existing among the majority of other peoples at the time of the promulgation of the laws.

IV. Self-Cultivation

Man's duty to himself includes more than self-preservation, for he cannot reach his highest possibilities solely upon a physical plane, כי לא על הלחם לבדו יחיה האדם but has need of spiritual training and inspiration. Thus there devolves upon him the duty of self-cultivation, by which is meant the exercise of his mental powers in the field of knowledge.

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[31] According to the interpretation of some rabbis the laws and statutes of the Thorah are likened to the "milk" mentioned in Isaiah 55:1. See Radak Loc. Cit.

[32] We do not care to dwell at length upon the historical significance of this dietary regulation. We are told, however, that certain ancient, idolatrous peoples were accustomed at the time of harvest and vintage to seeth a kid in its mother's milk. The liquid was then sprinkled upon fields and gardens in the belief that fertility would be increased thereby. In consequence of this superstitious practice, the prohibition was laid upon the Jews. See also Maimonides. More Nebuchim, Chapter 48.

Too important did the Jew consider this mental self-cultivation, that he regarded it as an even higher duty than according honor to parents. "Studying the Thorah is even greater than honoring father and mother."[33] Therefore, we find the *Shulhan 'Aruk* laying much emphasis upon the acquiring of knowledge by all classes and conditions of men.

> "Every Jew is obliged to study Law, whether he be rich or poor, whether he be well or in distress, whether he be young or much advanced in years, though he be a beggar going from door to door. Even one who has a wife and children is obliged to set aside a time both day and night for the study of the Law . . ."
>
> "One who cannot study, because he does not know how to do so, or because he is so busy that he has no time, must help others to study.
>
> "A man should study before taking a wife, for if he takes a wife first, a responsibility rests upon him which might keep him from study. But if the desire urge him, let him first take a wife and then study.
>
> "How long is a man obliged to study? To the day of his death. For if he does not study, he forgets.
>
> "Every home, where the words of the Thorah are not heard at night, will be burned by fire."[34]

The ethical import of the acquiring of knowledge so urgently enjoined in the above quotations is easily recognized. Increased knowledge brings broader vision of the meaning of life; more complete understanding of the ways of God and man and hence more tolerance and peace, piety and morality. "Without knowledge there is no true morality and piety."[35] "The more knowledge, the more spiritual life."[36]

Knowledge leads to better home life not only because a man can be a better husband and father, if he knows the Law, but also because the atmosphere of spirituality will powerfully influence the growing children. The statement that a "home, where the words of the Thorah are not heard . . . will be burned by fire," may not be merely the expression of a superstition, but may have reference to the certain disintegration of family life in homes where materialistic concerns outweigh the spiritual.

The Jew, who consistently followed the program of culture desig-

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[33] Yoreh Deah, Chapter 240 Comp. Meg. 16; Erubin 63; Aboth 6.
[34] Ibid. Chapter 246.
[35] Aboth II. 5.
[36] Ibid III. 1.

nated by the *Shulhan 'Aruk,* obtained day by day the gist of Judaism as presented in the Bible, Mishnah, Talmuds and later recognized authorities. This knowledge was designed to prepare him for a true and complete understanding of God. Maimonides[37] indicates seven stages of intellectual and religious progress, the highest of which is marked by the true conception of God. Herewith he voices genuine Jewish sentiment. The most shining star in the firmament of Judaism is knowledge, especially knowledge of the Law, which gives to man a clearer insight into God's will.

V. Self-Direction

The duty of self-direction involves the control of natural human impulses so that they may aid rather than retard personal advancement, and the choice of a line of conduct, which will promote personal welfare. In the *Shulhan 'Aruk* this duty is manifested in certain of the laws already quoted.

For example, let us recall the rules in regard to the washing of hands "if one walks in the way." (p. 21.) Although a man might be hungry and his journey urgent, he must restrain his desire to eat, until he had observed the requirements for washing. If water was not available, he was obliged to press on or retrace his steps, as the case might be, in order to find the necessary means for cleansing his hands. Concession was made only if the distance involved would require a man to abstain from food for a greater length of time than might be reasonably expected.

The choice of food likewise demanded the exercise of self-control. Some of the forbidden foods were of a savory odor and palatable, but they were forbidden because of some reason at variance with true self-preservation and must not be partaken of, no matter how tempting.

In the section "Social Ethics," we shall observe that frequent occasions occur for the exercise of a high degree of self-control. The rules in regard to conduct at the table, for example, are replete with instances. As we shall see, one was admonished to abstain from gluttony, undue haste, anger, etc. The ethics operative between a father and his children demanded that the former control an impulse to undue se-

[37] We find Maimonides' ethical views in the following: In his introduction and commentary to Aboth in various passages of the "Sefer ha-Mitzwot," and in his "Yad ha-Hazakah," especially in the "Hilkoth De'oth" and "Hilkoth Teshubah."

verity. Even the exercise of charity called for a certain amount of self-control, for one was not to allow one's charitable impulses to run away with good judgment. The strict observance of the Sabbath as a day of rest likewise called for a high degree of self-control. In brief, we may say that the very fact of choice of conduct implies self-control.

One who chose to guide his conduct, therefore, by the rules codified in the *Shulhan 'Aruk* was then practicing self-direction of a high order, for all the details of his life were to be shaped toward the end of moral perfection as it was understood at that time.

VI. Summary

The code of the *Shulhan 'Aruk* in simple language, easily understood, even by a man of limited comprehension, and with great attention to detail, gave expression to the laws regulating conduct in all the affairs of life. Since ethical duties begin with duties to oneself, we have discussed in this section, Part II, the laws, which were directed primarily toward the advancement of personal welfare. We have considered these laws under four heads, viz., *Worship, Self-Preservation, Self-Cultivation,* and *Self-Direction.*

The duty of worship was enjoined in an impressive admonition, which sounded the keynote of personal duty as manifested in service to the Creator by prayers at regular periods during the day and also prayers upon special occasions as expressions of thanks to God for his bounty.

The duty of self-preservation was observed in the proper regard for the body, which regard demanded that it be maintained in good health. To this end, laws were stated regarding cleanliness and the choice and preparation of food which manifested a high degree of sanitary observance much in advance of the time.

The laws of self-cultivation marked an even greater advance over the practices of the time. When the per cent of illiteracy was high among other races, the Jew was commanded to study continually, irrespective of his condition, age or station. Nothing gives more evidence of the high standard of Judaism than this regard for knowledge and wisdom.

Inseparably interwoven with the laws referred to, as well as with yet others, are the elements which form the duty of self-direction as

exhibited by self-control and choice of a line of conduct which will best promote personal welfare.

Whereas some elements of modern ethics are not observable, and other elements seem obscure or a trifle absurd from our standpoint, nevertheless the standard set is high for the time and the apparently obscure elements have but lost their significance with the passing of time.

PART III

SOCIAL ETHICS

PART III

SOCIAL ETHICS

I. Introduction

SOCIAL ethics has to do with social contacts of an intimate, idealistic or altruistic nature. While such contacts may have a legal aspect, as for example, marriage, this legal element does not constitute their most vital or essential feature. The basic principles of these contacts are good will, friendship and love for family or humanity. In other words, social ethics deals with the laws of humanitarianism.

The social ethics discussed here is chiefly rabbinical. As we have already noted, the life of the Jew was inseparably united with his religion, and his course of conduct was shaped by rabbinical directions. Rabbinical ethics, however, was made up of laws of righteousness based upon humanitarianism and required an exalted standard of conduct in all social relations.

However, despite the idealism of a social code which placed putting one's fellow man to shame on a par with murder,[1] no requirement was made which failed to take into account human nature and human frailty, nor was the individual admonished to stand aloof from social contact in order to live up to the highest ideals. On the contrary, the Jew was urged to seek the society of his fellows, "Sever not thyself from the congregation."[2] However, society was to be sought not for self-interest, but for service, "And let all who labour with the congregation labour with them for the name of Heaven."[3]

It is generally recognized that the task which man cannot do alone in the service of humanity, becomes easy of accomplishment when he joins forces with others, especially if a strong and efficient leader guides the combined efforts. Hence while the Jew was not to strive in any way

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[1] See B. M. 58b.; Aboth iii. 2 ". . . He who exposes his fellowman to shame in public . . . he has no portion in the world to come"; Hoshen Mishpat, Chapter 1.

[2] Aboth ii. 5.

[3] Ibid. ii. 2.

for political preferment, "Do not aspire to public office;"[4] nevertheless, where a need occurred, he was enjoined to hold himself ready for service, "but where there are no *men,* try thou to be the *man.*"[5]

II. Table Etiquette

Since service to humanity is based upon consideration for others, matters, which, at first thought, are apparently of minor ethical import, as for example, table etiquette, were given detailed attention. From the Jewish standpoint, however, the table was, in a manner of speaking, an altar and hence holy. In consequence, conduct at the table took on the aspect of service to God, which was governed, therefore, by the ethics of such service. Apart from this, no one will question that the manner of eating may have a definite influence upon health and thus be governed by the ethics of self-preservation. Likewise, one may so deport oneself at the table as to promote or destroy the convenience and comfort of one's companions, or of those who serve. The Jews, taking all of these factors into consideration, laid stress upon table etiquette, enjoining service to God and thoughtfulness of others. The following extract presents a unique, though obvious, ethical principle in regard to attitude toward servants.

"If any foods are placed before one, which exhale an odor inciting desire, one must immediately offer a portion thereof to the one who serves. Piety, however, requires that a portion of each kind of food be offered to him. But the food should not be offered, while the dish containing it is in the hands either of the one serving or the one served."[6]

In our opinion, the ethical principle herein contained is probably unparalleled in any code of the time. The recognition that a savory odor can so incite hunger as to produce genuine distress, presupposes a high degree of sympathy for one's fellow and an alertness to relieve all suffering of whatever degree. Moreover, "piety" demanded that portions of all food served must be proffered, inasmuch as a savory odor might belie the nutritive value of a dish, whereas another more palatable and more nourishing might assail the nostrils in a less degree. We note also that the offering was not intended to be a mere perfunctory gesture, but was to embody the elements of lack of haste and gracious-

[4] Ibid. i. 10.
[5] Ibid. ii. 5.
[6] Orah Hayyim, Chapter 169.

ness, for the dish containing the food was to be actually on the table, when the offer was made, thus giving the servant an opportunity to accept without awkwardness.

Upon occasion, however, this procedure might not be practicable, as for example, when a servant attended to the wants of a number of people. Under such circumstances, an immediate offering of the food on the part of one would delay the service and consequently would be lack of consideration for others. Hence we find the following rule laid down:

"All who eat must leave a portion on the dish, because this is the food for the servant. But if the servant pours food from a saucepan into the dish, it is not the custom for him to retain a portion for his need."[7]

This evidently was a customary method of providing for the servant and has, no doubt, reference to a time when several ate from a common dish as is still the custom of many Oriental and Slavonic countries. On the other hand, we note that the servant was called upon to exercise the personal ethical duty of self-control, inasmuch as he was not to retain for himself a portion of the food, which he might easily have done if it were in a saucepan, but was to await the pleasure of those he served.

Further rules for table etiquette discuss uncouth haste or gluttony, consideration for table companions, duties of guest and host, and usual religious observances at table.[8] A perusal of these rules will make evident that the Jew recognized in an unusual degree the ethical duty of consideration for others, which constitutes the basis of all harmonious, social intercourse of any period. Moreover, he took cognizance of the fact that the manner of taking food may be a direct violation of the ethics of self-control and hence of self-preservation. Further, he embodied in these rules elements of religious significance, so that his conduct at table became another phase of his service to God.

III. Marriage

1. *Duty of Marriage.* Marriage was universally advocated by Talmudic law as the most normal and happy state of life, which would best promote the physical, mental and spiritual well-being of the individual. The blessings of security, joy and peace were dependent upon the consummation of marriage, and the establishing of a house or a home in

[7] Ibid. Chapter 170.

[8] See Orah Hayyim, Chapters 163-214 (especially Chapters 169-171).

Israel was regarded as the honorable fulfilment of a duty, for thereupon rested the stability and endurance of the race.[9]

As a matter of course, the laws codified in the *Shulhan 'Aruk* view marriage from a similar point of view. It is constantly reiterated that marriage is a duty, i. e., the duty of human propagation. Thus we read:

"It is the duty of every man to marry in order to propagate the human race. The man who fails to marry is likened to one who sheds innocent blood, and it is as though he diminished the divine image."[10]

Hence, inasmuch as the continuance of the race is dependent upon propagation, one who neglects the duty of marriage, fails in his duty to the race and from the standpoint of the above law is as guilty as a murderer, for in both cases the "divine image" of God has been diminished, either because life, which already existed, has been destroyed through violence, or that, which might have existed, has been destroyed through failure to reproduce.[11] The first ethical principle of marriage, therefore, is duty to God and to humanity.

2. *Age for Marriage.* Let us now examine the code of the *Shulhan 'Aruk* in regard to the proper age for marriage.

> 'It is the duty of every male to marry upon attaining the age of eighteen years and it is even preferable that he marry before attaining such age, but not earlier than thirteen years.
>
> "Under no circumstances shall a man remain unmarried at the age of twenty years (See Kidushin, 29b). If one has passed the age of twenty and does not wish to take a wife, then the court must compel him to do so in order to fulfil the law of propagation.
>
> "If a man studies and fears that marriage will interfere with the pursuit of his studies, he is permitted to postpone it.
>
> "If a man is poor and possesses no means of meeting all marriage expenditures, he is even permitted to sell the Scroll of the Law in order to be able to marry."[12]

So important, therefore, was marriage considered that these laws

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[9] See Ruth iv. 11.

[10] Eben-Haezer, Chapter 1. Women are exempted from the duty of marriage, although to avoid suspicion, they are advised not to remain single. Ibid. See also Yeb. 65b; Yad. l. c. ii. 16; Ib. Issure Biah, xxi. 2b.

[11] Concerning the destruction of the power of reproduction see Eben-Haezer, Chapters 5, 25.

[12] Eben Haezer, Chapter 1. Comp. Sanhedrin 76b, Megilah 27a. The consent of parents not essential to the validity of a marriage (Yoreh Deah, 240, 25 Isserles' gloss).

designate an extremely youthful age for its consummation and command that a man perform this duty at all costs, being forced to do so if reluctant. According to modern ideas, marriage at eighteen is undesirable and at an earlier age, unthinkable. We must take into account, however, both the customs of the time and the earlier development of Orientals as compared with Occidentals. This was especially true of the Jews, who, because of compulsory education (see p. 33), were at the age of eighteen much in advance of their neighbors intellectually.

At the time of the codification of the *Shulhan 'Aruk,* marriage at the age of eleven was not uncommon among other races. While even today in certain regions, this practice is not unknown, as for example in India. Thus the postponement to eighteen gave considerably more time for physical and mental development. Giving due regard to earlier maturity, these laws were designed to promote purity and chastity. Under their direction, prostitution was considerably diminished, if not entirely eliminated. Small consideration was accorded to the man who would gratify his desires, but fail to perform his duties, as we see from the fact that one upon reaching the age of twenty could be compelled to marry by the courts.

However, if a man was studying, consideration was granted him, evidently with the view that a fine mind should have full opportunity for development, and in such a case, the duty of self-culture might well take precedence over other duties for the time being, if the latter might operate to the disadvantage of the former. But this was the only reason recognized as valid for postponement. Even poverty could not serve as an excuse, as the last of the above laws illustrates.

3. *Choice of Wife.* The chief reason for marriage being the propagation of the human race, the laws recognized the importance of heredity in forbidding marriage with a woman of ill repute.

> "It is the duty of man to marry a reputable woman. A man is prohibited from marrying a woman forbidden to him by law.
>
> "He who marries a woman forbidden to him because of pecuniary gain, will have disreputable children.
>
> "Relatives may interfere with any member of the family who is about to marry a woman forbidden to him."[13]

Thus marriage was not to be consummated without regard for the transmission of inheritable traits and characteristics, for a race is not

[13] Eben Haezer, Chapter 2. Comp. Kidushin 70a.

strong solely through numbers, but through strength of desirable qualities. Even the family had a right to prevent one of its members from disregarding these important considerations. On the other hand, it was commendable to make every effort to secure a worthy mate, and union with a man of learning or with the descendent of a learned man was regarded as desirable in an unusual degree. A man was enjoined to sell all he owned, if he might thereby render himself eligible to marriage with the daughter of a man of learning.[14]

4. *Summary.* The laws codified in the *Shulhan 'Aruk* designate the duty of race propagation. However, women were exempted from this obligation, although urged not to remain single in order to avoid suspicion. Since propagation is the chief reason for the existence and continuance of the institution, it should take place at an early enough age to secure the maximum of chastity; it should be consummated with due regard to the good repute of those entering into the union; and it should continue only if it justifies its existence, i. e., the propagation of the human race.

IV. Parents and Children

Careful attention is given in the *Shulhan 'Aruk* to the respective duties of parents and children, the former being admonished in regard to conduct, which will entitle them to the respect and honor, which is enjoined upon the latter. As a result a high standard of family life developed, which is observable even today. In Jewish homes where the *Shulhan 'Aruk* has a place mutual good will, and forbearance, and very real respect on the part of children for parents are very evident.

We quote herewith the laws governing family relations.

1. *Parental Duty in Regard to Education.*

"It is the duty of a man to teach his son the Thorah. If his father has not taught him, he must teach himself."[15]

"If a man is in need of instruction himself and his means are not sufficient to procure instruction for both himself and his son, and both are of equal ability, then he takes precedence. But if the son exhibits greater ability than the father, then the

[14] See Pes. 43; Ket. 111b; Yalk; Ex. 269. Comp. Yoma 71a.

[15] A father's duty is not complete when he provides for his children, for he is under obligation to see that they are instructed as well, and that his son is taught a trade, and anything else that is necessary for his success in life. (Kidushin 29a).

son must take precedence. In any case, however, the father must not neglect to study."

"Just as it is a duty to teach one's son, so it is a duty to teach one's grandson."[16]

2. *Parental Authority.*

'A man should not cause his yoke of authority to rest heavily upon his children nor should he be very exacting in regard to manifestations of honor and respect, lest he cause his children to err. He should rather try to forgive them in all respects and even at times close his eyes to their faults."[17]

3. *Honor due to Parents.*

"One should be very careful to honor one's father and mother and to revere them."[18]

"If a man's father say to him, 'Give me to drink,' and his mother makes the same request, he leaves his mother and does honor to his father.

"But if his mother is divorced from his father, then both are equal and he may give to either one as he prefers."[19]

4. *Discussion of Laws.* Undoubtedly the most remarkable feature and the strongest ethical element of these laws is the stress laid upon the father's duty in respect to the education of his children. It is even more noteworthy, when we consider that at the time of the promulgation and codification of these laws, public education, in the sense in which we understand it today, was completely unknown. There was no taxation for education purposes, nor any other provision for general instruction. In consequence the percentage of illiteracy among races other than the Jewish was extremely high. Governed by these laws, however, the Jew made every effort to provide his children with instruction, even in the face of most adverse conditions. The poorest father would subject himself to great self-denial, even going without bread, in order that his children might not grow up ignorant.

The case in which the father took precedence over the son in the matter of instruction had its justification no doubt in the fact that the father's need was the most immediate for the business of life. Also he could impart what he learned to his son, so that the latter would suffer

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[16] Yoreh Deah, Chapter 245.

[17] Ibid. Chapter 240.

[18] "Where children honor their parents, there God dwells, there He is honored." (Kid. 30a).

[19] Yoreh Deah, Chapter 240.

little delay in his instruction. However, if the son manifested superior abilities, it was regarded as a crime not to develop his powers immediately, and the father was called upon to sacrifice himself.

The sacrifice and service on the part of the parents was to be repaid by extreme honor and reverence on the part of the children. Even honor and reverence to God was not greater than that which should be accorded to parents.[20] As between father and mother the former was entitled to the greater consideration and service, a fact entirely in keeping with the ideas and practices of the time, and even today with those of the Orient and many parts of Europe, particularly Eastern Europe.

However, if the mother was divorced, we observe that the father did not necessarily take precedence. At first thought this would seem to indicate that divorce gave a woman greater freedom and independence. Indeed, according to the *Shulhan 'Aruk,* although a man was supposed to support and cherish his wife,[21] he was considered her master as the Hebrew word בעל implies. In this case, however, it is more probable that the woman was regarded as one who suffered, for although no longer under the authority of her husband, she was also deprived of his protection. Therefore, it would not be fitting to add to her distress by discrimination in his favor on the part of the children.

Although entitled to the respect of his children, a man was cautioned not to be extreme in his demands for manifestations of this respect, nor a martinet in the exercise of his authority, as such an attitude destroys genuine respect and drives children to rebellion. The necessity for this law may have arisen from the recognition of the aloofness with which many children conducted themselves toward their father, never greeting him with a smile and regarding him more as a god than as one of themselves. Thus is the father admonished to a leniency which will win the affection and confidence of his children, thereby creating an atmosphere conducive to the highest type of family life.

V. Teachers and Students

Analogous to the relation of parents and children is that of teachers and students. We have seen that the honor accorded to parents was as the honor accorded to God, hence we might naturally assume that

[20] "The honor and reverence due to parents are equal to the honor and reverence due to God." (Kidushin 29b).

[21] Eben Haezer, Chapter 173.

teachers would likewise be the recipients of reverence, especially since education was regarded so highly. This assumption is borne out by the laws regarding teachers and students.

1. *Honor and Respect Due to Teachers.*

"A man should honor and revere his teacher even more than his father."

"He, who opposes his teacher, is as one who opposes the divine presence or Shekinah.[22] If one contends with his teacher, it is as if he contended with the Shekinah. One who rebels against his teacher is as one who rebels against the Shekinah. One who criticises his teacher is as one who criticises the Shekinah."

"A man should never teach in the presence of his teacher, and if he does so, he must be sentenced to death."

"A man should not teach until the death of his teacher, unless the latter give him permission."

"One must not honor a student in the presence of his teacher unless the teacher himself honor him."[23]

2. *Respect Due to Learned Men.* The rules which follow make evident the respect due to men of learning in general, whether they are teachers or not.

'It is a great sin to spurn or to hate learned men. One who does this, has no share in the world to come."

"Learned men are exempt from common social duties such as construction of buildings, digging trenches or any kind of menial labor in the town which is performed by the inhabi-

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[22] "Shekinah" or divine presence; "a title apparently borrowed from the Temple, where the Lord chose 'to cause his name to dwell' (cf. בתוכם משכן ושכנתי Ex. xxv. 8). The Shekinah was as it were, a light reflected from the Godhead; it had no existence apart from the Godhead yet could be seen of man apart from the Godhead, like the sun which itself cannot be seen, but only the light poured from it for the benefit of mankind. So the Godhead cannot approach man, the Shekinah may approach him, shed its rays over him, just as its rays are shed over the Temple. (בית המקדש is translated in Aramaic בית שכינתא). The Shekina even goes into exile with the nation. Though this is a late conception, it could not have developed except for the earlier conception of the Shekina. The Shekina is the first "hypostasis of the Godhead: it is not yet thought of as an emanation, but the Godhead itself revealed in such a form as is seemly for it to be revealed." (*Klausner, J.*, Jesus of Nazareth, MacMillan, New York, 1925, p. 197).

[23] Yoreh Deah, Chapter 242.

tants in general, lest the latter fail to treat them with proper respect."[24]

"It is a duty to rise and honor a wise man, even if he is not one's teacher."[25]

3. *Discussion of Laws.* As we see the honor in which all learned men were held and note that the reverence to a teacher was to exceed the reverence to a parent, we are impressed again by the high regard which the Jew had for education. To be a learned man from the Jewish standpoint, one had to be imbued with the wisdom of the Thorah. Since the Thorah is inspired by God, one who contained it within himself, תורה במעיו had placed himself in direct contact with the divine. Any man is worthy of respect, because he is created in the image of God. How much more worthy is he of respect, if divine wisdom and spirit permeate his being!

Is it, therefore, a strong or a weak point in the law, that a teacher was to be honored even more than a father? In the light of the exalted regard of the Jew for learning, it must be said that it was a strong point. The man of greater learning, who was able to instruct in the Thorah, was placed, because of this, on a plane with the Shekinah and hence deserving of the highest honor, even greater than that due to a parent.

Likewise one who opposed, contended with, rebelled against or criticised his teacher, placed himself by such conduct out of harmony with the divine presence or Shekinah, for the teacher was regarded as the expression and embodiment thereof.

The apparent severity of the death sentence for teaching in the presence of one's teacher had its justification in the necessity for respect for authority which such procedure violated.[26]. Since the teacher naturally had superior knowledge from longer and closer contact with the Thorah, a seeker after knowledge should be referred to him directly. Any student who arrogantly presumed to instruct in the presence of his rabbi, cast discredit upon the latter, which might easily breed contempt for authority. If respect for worthy leadership is destroyed, a state of anarchy is created and civilization is threatened. Hence the Jews were quite justified in stern measures to avert any evil of this nature. No

[24] Ibid. Chapter 243.

[25] Ibid. Chapter 244.

[26] This however was not carried out in practice, the prescribing of the death penalty was not to be interpreted literally, but referred solely to excommunication. (See Hoshen Mishpat, Chapter 425.) See also p. 61.

man, therefore, might teach, i. e., assume leadership during the lifetime of his teacher, unless the latter granted him permission, or as we should say now, granted him a certificate. Thus was authority maintained and civilization protected.

Further, no student could be honored in the presence of his teacher, unless the teacher himself honored him. To act otherwise would reflect discredit upon the teacher making a bad impression upon any who witnessed it and thus leading to the aforementioned evils of contempt for authority and resulting anarchy.

Not only were teachers highly respected, but learned men in general were accorded all honor. The esteem in which society held learned men was a beautiful expression of reverence for knowledge, which excites admiration. There is no place for the demagogue in a society where a genuine respect for real learning exists. How much modern social and civic affairs could profit from a similar attitude!

VI. Charity

1. *Definition of Charity.* Charity may be defined as "liberality," "an expression of love" or "an act of kindness" and implies the giving of material and spiritual aid where needed. The Hebrew word for Charity is צדקה righteousness.[27] Rabbinical literature employed the expression גמילות חסדים, or גמילות חסד meaning the "bestowing of kindness."[28] Biblical and Talmudic ethics placed charity highest in the list of virtues and duties, which attitude is naturally reflected in the laws codified in the *Shulhan 'Aruk.*

2. *Duty of Charity.*

> "It is a positive Biblical command to exercise charity according to one's means. There are numerous positive commands as to charity; and also a negative command not to close one's eyes to charity, for it is written, 'Thou shalt not harden thy heart nor shut thy hand (from thy poor brother).'[29] And he who closes his eyes to it is called 'wicked' and is regarded as if he worships idols. One should take great heed in giving alms that he be not the cause of bloodshed, for the

[27] See Deut. xxiv. 13; Isa. xxxii. 17; Prov. xiv. 34; Ps. cvi. 3; Dan. iv. 24.

[28] "The bestowal of kindness is one of the three things on which the world is stayed," teaches Simon the Just in the third Century B. C. (Abboth i. 2).

[29] See Deut. 15:7.

poor man in need may die before help reaches him if it is not offered quickly . . ."[30]

"Every one should practice charity, even a poor man who is himself supported (in part) by charity."

"If one fails to give what he is able, the custom of the court permits that he be smitten until he is willing to give. In his presence, his property can be confiscated up to the amount that it is estimated that he can give."[31]

"One may even pawn one's possession for charity, even on the eve of Sabbath."

"It is not decreed that orphans give to charity."[32]

"A thirty days' residence in a place obliges one to contribute towards the *Kuppah;* a three months' residence, to the *Thamhuy*;[33] a six months' residence, to the *Clothing-Fund* for the poor; after nine months one must contribute to the *Burial Fund* with which to make interment of the poor and perform all funeral rites. This applies to one who comes to dwell in a place temporarily; but if he settles there permanently, he must become a contributor at once."

"If one comes to a strange city on business, and is assessed by the city with an amount for charity, he must pay that for the poor of that city."[34]

We see that the obligation to practice charity was universal, "volens nolens." Even the poor and needy were not excluded from a share in this valuable ethical experience. The increased self-respect accruing from the realization that one gives as well as receives has great moral significance in the life of an individual. Any system, which fosters such self-respect, is in itself charity of the highest type, inasmuch as it implants the idea of self-help.

Should anyone fail in his obligation to charity, wholly or in part, stern measures were employed to force the required contribution. Since God Himself commanded the practice of charity,[35] "for the poor shall

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[30] Yoreh Deah, Chapter 247.

[31] Charity is expected of all men and toward all men. See Deut. xxiii. 5; I Kings xx. 31; Amos i. 11—ii.

[32] Yoreh Deah, Chapter 248.

[33] The *Kuppah* was the money collected by the Gabbayim (collectors) and distributed among the poor once a week before the Sabbath. The *Thamhuy* was the food collected likewise by Gabbayim and distributed among the poor daily towards evening (See Yoreh Deah, Chapter 256).

[34] Yoreh Deah, Chapter 256.

[35] Deut. xv. 10, 11.

never cease out of the land," there could be no hesitancy in fulfilling this duty, and force must be used to exact it if necessary.

The importance assigned to charity is further manifested by the permission that for this purpose one might pawn (an undesirable practice in itself), even on the eve of the Sabbath, a time when all refrained as much as possible from the ordinary occupations of daily life. Scarcely a stronger proof could be offered.

Why were orphans exempted from the general obligation? Judaism regarded orphans as particularly helpless and deserving, therefore, in need of protection, hence it is but natural that they should be granted especial consideration here. Since an orphan has no parents to conserve his property, no risk should be taken, which might bring him to want.

Even transients in a given city or region were assessed for charity in proportion to the length of their sojourn, thus no one could avoid charitable obligations by moving from one place to another.

The universal contribution to charity made it certain that the poor would always be assisted in times of need. Moreover, because everyone contributed, everyone was interested because all had a part in the institution, the welfare and continuance of which was thus a public concern. Even self-interest was served, inasmuch as no one could say that he or his descendants might not come to want and thus be dependent upon this carefully fostered institution.[36]

3. *Amount Given to Charity.* The *Shulhan 'Aruk* is explicit in regard to the amount which a man was to give to charity, so that lack of information could not be advanced as an excuse for withholding the proper amount.

> "If one has the means, he should give the amount, which the poor need; but if he cannot afford to do this, he should give not more than one-fifth of his property. The first year, that he has established himself, he should give one-fifth of his principal, but henceforth he should give only one-fifth of the profit which accrues to him each year. It is commanded that he should give from the choicest possession."
>
> "A contribution of one-tenth of one's possessions is re-

[36] "Let man realize that he himself is forever seeking sustenance at the hand of God, and just as God answers his prayer, so should he answer the prayer of the poor. Let him also realize that the world is a revolving sphere, and that eventually he or his son or his grandson may be reduced to such circumstances." (Isserles, Yoreh Deah, Chapter 247).

garded as a moderate amount, but if one gives less, he is said to be possessed of an evil eye."[37]

One should never give less than one-third of a Sheckel a year, and if he gives less than this, he does not fulfil the command to be charitable."[38]

"A well-to-do man who gives more than his share to charity, or who gives more than he can afford to pay the collector in order not to be embarrassed—from such a man it is forbidden to demand or claim his dues; and the Gabbai who humiliates him by asking for it, will be called to account in the future by the Holy One, blessed be He."[39]

These laws, which set a limit to the amount to be given to charity, constitute an almost direct contradiction to the New Testament admonition, "to sell all that one has" and "give it to the poor,"[40] thereby securing "treasure in Heaven." Obviously it is possible to take exception to such procedure, for if one gives everything at once, he renders himself incapable of further assistance to the needy and who can say that in some succeeding year help will not be more necessary than at the time he makes his all-embracing contribution? Even more serious is the consideration that in this way he exposes himself to destitution, and may descend from a state of independence, where he is a useful member of society, to a state of want, where he is himself an object of charity and thus a burden to society.[41] We may say, therefore, that excellent judgment and wise foresight governed the promulgation of laws, which established a limit for charity in accordance with actual conditions of life rather than in accordance with impractical ideals, "for the poor shall never cease out of the land."

4. *Those Worthy of Charity.* Good judgment and common sense were also applied in determining worthy objects of charity. Real need was to be relieved promptly, but effort was to be made to the end that the unworthy should not profit at the expense of the worthy. The laws following are of interest.

"Whoever comes and says, 'Give me to eat,' should be

[37] "But a man should not squander more than one-fifth to charity, so that he might himself become a public charge. This refers only to his lifetime. Of course, at the time of death one may leave for charity as much as he pleases." (Isserles).

[38] Yoreh Deah, Chapter 249.

[39] Ibid. Chapter 248.

[40] Matt. xix. 21.

[41] See Ket. 50a.

given food immediately, without effort to ascertain whether he is an imposter."

"If one who is naked, comes and says, 'Clothe me,' effort should be made to verify his need, and if it be found that such need exists, he should be clothed immediately."[42]

A particularly beautiful ethical feature in these laws is the command to give food without demur to anyone asking it, whether he was an Israelite or not. The law recognizes that people differ in strength of endurance, and it is impossible to determine how much one suffers from hunger. Hesitating in providing promptly for actual distress is a great sin, which may cause extreme suffering or even death. On the other hand, if one appears unclothed, his need is not so urgent, and there is the chance that he may be an imposter, hence it is legitimate to take time for investigation.

5. *Duty of Accepting Charity.* Not only was it a duty to bestow charity, but upon occasion it was also a duty to accept it. Thus "He commits a crime who imperils his life by refusing to take charity when he is in dire need." (Yoreh Deah, Chapter 255. Comp. Yer. Peah viii. 21b). This is entirely in keeping with the ethics of self-preservation, which forbids a man to do anything which may deprive society of his services. If he accepts aid when he needs it, he may be able in time to render services which compensate society many times for the charity extended. But if he delivers himself to the destruction of dire need, both he and society suffer.

6. *Preventive Charity.* Even more important than relieving distress is preventing distress.

"The noblest form (of charity) is to strengthen the hand of an Israelite[43] in need, by giving him a gift or a loan, by joining him in partnership, or by finding him work, so that he may not become a public charge and a beggar; and it is

[42] Yoreh Deah, Chapter 251.

[43] The term "Israelite" is used because this is a legal code, applicable chiefly to the Jews of the Diaspora, living in their restricted communities or Ghettos. In their own land, where the Jews were in the majority, charity, as well as other humanitarian laws, was not restricted to members of the Jewish people only, but was extended to include all people, for it is written "Ye shall have one manner of law, as well for the stranger, as for the homeborn; for I am the Lord your God." (Lev. xxiv. 22) Again, "The stranger that sojourneth with you shall be unto you as the home-born among you, and thou shalt love him as thyself; for ye were strangers in the land of Egypt: I am the Lord your God." (Ibid. xix. 34) etc.

with reference to such a mode of charity that the Bible says, 'thou shalt uphold him. (Lev. xxv. 35)' "[44]

There can be no question that the *Shulhan 'Aruk* was justified in regarding this admonition as the noblest form of Charity. A man, who can help himself, renders material service to his community and is in addition an influence for good because of self-respect and self-reliance. He is thus far more valuable both from a material and a moral standpoint than an incomplete dependant can possibly be. It is obvious, therefore, that the ethical element is very prominent in this law, for the one, who has been assisted by preventive charity to help himself, is saved not only physically but spiritually.

7. *Summary.* The ethics of Judaism, therefore, designated charity as one of the principal social duties, obligatory upon all. Charity was a well-established, community institution, far in advance of its time, as is illustrated by the existence of the *Kuppah,* the *Thamhuy,* the *Clothing Fund,* and the *Burial Fund.* So important was the practice of this virtue considered, that one was justified in going to great lengths in order to obtain the wherewithal to contribute, and force was deemed justifiable to exact unwilling contributions. One could not escape assessments for charity by moving from one place to another, for the stranger was taxed in proportion to the length of his sojourn. Good judgment, however, was used in determining the amount given to charity, and a man was never to beggar himself in order to give to others. While reasonable precaution was permitted against possible imposters, no hesitancy was countenanced when genuine distress was to be relieved. Not only did an obligation rest upon the donor of charity, but upon the recipient as well, who was to accept it in accordance with the ethics of self-preservation and duty to society. Of the various grades of charity, preventive charity, which helped the individual to help himself, was considered the noblest.

VII. Truth and Truthfulness

Truthfulness is an indispensable virtue in social relations and constitutes a basic element of Judaism. "Truth is the signet of God, the most Holy."[45] In the laws codified in the *Shulhan 'Aruk* on pledges and vows[46], as well as the parts dealing with oaths, due recognition is given

[44] Yoreh Deah, Chapter 249.
[45] See Sabbath 45a.
[46] Yoreh Deah, Chapters 203-236.

to the ethical value of this essential virtue in men's dealings with one another and man is admonished, therefore, to truthfulness in word, deed, and intent. "One should be careful not to pledge anything, even for charity, unless he already has in his possession the means to fulfill immediately his pledge; otherwise he should make no pledge, until he has the means."[47]

Having so recently considered the importance which the Jew assigned to charity, the above statement becomes increasingly significant. No pledge was to be made even for a worthy object, if there existed any doubt as to its fulfilment. This implies a high ethical standard of veracity in all social relations, since no breach of faith, even though unintentional, was palliated. Thus the laws on pledges and vows found in the *Shulhan 'Aruk*, as well as the parts dealing with oaths,[48] have important ethical significance and have as their aim the moral improvement.[49]

VIII. The Sabbath

1. *Observance of Sabbath.* The laws concerning the observance of holy days and the Sabbath occupy a very prominent place in the *Shulhan 'Aruk*. To the Sabbath alone are devoted chapters 242 to 408 inclusive in *Orah Hayyim*. It is not our purpose to treat these laws in detail, but only to give attention to an outstanding ethical element of powerful influence upon Jewish life, which was chiefly evident in the observance of the Sabbath and for which purpose all the laws exist.[50]

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[47] Ibid. Chapter 203.

[48] Ibid. Chapters 236-240.

[49] See B. Metzia 45a ("Let thy yea be in truth, and thy nay be in truth"); Sabbath 104a ("Truth lasts forever, but falsehood must vanish"); Aboth i. 15 ("Promise little and do much"); Sanhedrin 92a ("To be faithless to a given promise is as sinful as idolatry"); B. Metzia 48a ("To break a verbal engagement, though legally not binding, is a moral wrong"); Hulin 94a ("It is sinful to deceive any man, be he even a heathen"); B. Metzia 58b ("Deception in words is as great a sin as deception is in money matters"); Sabbath 28b ("When the immortal soul will be called to account before the divine tribunal, the first question will be 'hast thou been honest and faithful in all thy dealings with thy fellow man?'").

[50] All the laws concerning the observance of the Sabbath, which are codified in the *Shulhan 'Aruk*, are based upon the following Biblical references: Gen. ii. 1-13. Ex. xx. 8; xvi. 22-30; xxxi. 14, 15; xxxiv. 21; xxxv. 3; xvi. 23; xxxi. 1; xxxv. 2. Lev. xvi 31; xxiii. 3; xxiv. 8. Num. xv. 32-36; xxviii. 9, 10. Deut. v. 12 et. seq. II Kings xi. 5; iv. 23. Amos viii. 5; i. 9; Isa. lviii. 13, 14; lxvi. 23. Hosea i. 11. Jer. xvii. 21 et seq. Lament, ii. 6. Ez. xx. 12, 16, 20, 21, 24; xxii. 8; xxiii. 38; xliv. 24; xlvi. 2, 3; xlv. 17; xlvi. 4, 5. Neh. x. 32; xiii. 16, 17; x. 19 et seq. Ps. xcii.

The ethical element is embodied in the commandment of complete rest on the Sabbath. The rest had to be absolute. Not only the master of the house was to rest but all his family, all his dependents or servants, strangers temporarily domiciled in his home, and even domestic animals. Nothing was allowed to interfere with this rest, and no exceptions could be made. No one could be exploited by being compelled by a superior to perform some labor, for the laws were strict and explicit, there even being a law as to how much walking a man was permitted to do, "תחום שבת."[51]

2. *Preparation for Sabbath.* Definite rules likewise governed the preparation for the Sababth. Every home, whether humble or pretentious, had to be immaculately clean on the eve of the Sabbath, with the candles in place.[52] Every member of the family also had to wash and prepare himself for the holy day.[53] If possible each one had to put on clothing different from that which he wore during the week, and which should be the best he had. If the family were too poor for Sabbath clothing, at least all garments had to be clean.[54] Even an especial kind of food had to be prepared in honor of the Sabbath.[55] This preparation in itself did much to set the day apart from the rest of the week.

3. *Spirit of Sabbath.* On the Sabbath there should be happiness and rejoicing. All worry and sorrow had to be banished. Even if one died, it was not permitted to grieve for him. The day was passed in rest, prayer, study and worship. Some went to the synagogue to study. Here poor and rich assembled, meeting on an equality of wisdom. Sometimes there were discussions of matters of learning, and he who could not take part, listened in order to glean a little. Small wonder that the Jew drew rest, comfort and spiritual stimulation from such a day, which carried over to the other days and gave him strength and inspiration to rise above the monotony of work.

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[51] The rabbis interpreted, Ex. xvi. 29, "let no man go out of his place on the seventh day" as a prohibition against walking beyond the city limits ("tehum"). City limits, however, did not refer to the actual boundaries, but included the surrounding district to the extent of 2000 cubits. Therefore one might walk anywhere within a given city, irrespective of its size and also to a distance of 2000 cubits around it. To go beyond was to violate the prohibition. ("Yad" l. c. xxvii; "Orah Hayyim," Chapter 396 et seq.).

[52] Orah Hayyim, Chapters 261-262.

[53] Ibid. Chapter 260.

[54] Ibid. Chapter 262.

[55] Ibid. Chapters 250, 253, 254, 257, etc.

4. *Sabbath in Relation to National Unity.* In villages or districts where the population was entirely Jewish, the Sabbath was characterized by extreme peace and quiet. In places where the population was mixed, the Jewish observance of the Sabbath was in striking contrast to the manner in which other people celebrated their holidays. It operated almost as a protest against the drinking and noisy frivolities of the latter.

Thus the Sabbath, together with other holy days preserved the unity and stability of Israel, guarded and protected it. The individual, society and nation were benefited through the practice of the virtues of self-control and self-culture and by turning the mind and heart toward spiritual things.

IX. Summary

The Jew was admonished to seek social contact not for personal aggrandizement but for service to humanity. This service to humanity was to be expressed in consideration for others under all circumstances, even in affairs of minor importance.

Thus at the table, a man was to comport himself in such a way as to give neither offence nor inconvenience to his neighbors from the standpoint of fastidiousness or comfort. Mutual consideration was required of guest and host, nor were the servants to be disregarded. Religious rites were to be observed, for the table was looked upon as an altar, which must not be profaned.

Service to humanity was to be rendered through marriage, for thereby the human race is propagated. In order that the race might reach its highest possibilities, marriage with anyone of ill-repute was discouraged.

In family relations, honor and reverence of parents was commanded to children, but parents were to make themselves worthy of true respect rather than objects of fear.

Even more to be honored than parents were teachers, who were regarded as the embodiment of the divine presence or Shekinah. Hence if one were out of harmony with his teacher, he was out of harmony with the Shekinah. All learned men, whether teachers or not, were to be treated with respect, for true wisdom was venerated at all times.

Service to humanity through charity was obligatory, but practiced with due regard for actual conditions. Good judgment dictated the

amount to be given, which was never to be as large as to impoverish the donor.

Since man's dealing with man must be based upon truthfulness, the Jew was exhorted to a degree of veracity, which forbade the breaking of one's word under any circumstances. Hence exceeding care had to be exercised in promising or pledging only when there was certainty of performance.

Nowhere else does consideration for others reach a higher standard than in the observance of the Sabbath. The perfect rest, which was to be observed here, extended to all members of the household, including servants and strangers, and even to the domestic animals. The quiet and serenity of the day could not fail to promote social peace. Also the observance of the Sabbath and other holy days was an important factor in preserving the unity and stability of Israel.

It will now be observed that consideration and regard of others governed the Jew in all the social relations, which we have discussed. However, as stated at the outset, nothing was required of him, which was too idealistic for practical accomplishment. The laws of social ethics are but an expression of the general commandment, "Thou shalt love thy neighbor as thyself" (Lev. xix. 18).

PART IV

CIVIL ETHICS

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I. Introduction

ALTHOUGH we have stated that the *Shulhan 'Aruk* is a codification of the laws of the Bible and the halakic part of rabbinical literature, not all the laws of these sources are codified. This is especially true of civil laws, because the Jews had lost their courts, and certain legal procedure was no longer possible. For this reason, the *Shulhan 'Aruk,* being a practical code, did not include many of the laws, omitting the greater part of those, which exacted the death penalty. In the laws of this type which were included, the prescribing of the death penalty was not to be interpreted literally, but referred solely to excommunication.[1] As far as civil laws are concerned, the Talmud as a whole is much more complete in showing the high lights of Jewish jurisprudence in the relations between Jew and Jew, and Jew and non-Jew.

Between the Jew and his fellows, we observe a high standard of moral relations. Between the Jew and non-Jew, the attitude shown may be said to be more ethical than that of many supposedly highly civilized and powerful nations toward their neighbors. Consider, for example, the attitude of the Greeks and Romans toward other nationalities. Also let us recall the treatment which has been accorded the Jew throughout Europe, citing the wholesale expulsion from Spain in 1492 as one of numerous instances. In fact, many of the discriminatory laws enacted by the Jew against the contemporary non-Jews were forced upon him by the exigencies of his existence as a matter of self-protection,[2] as will be shown by laws which we shall quote later. Other laws of this nature have as their basis the very natural and usual pref-

[1] Hoshen Mishpat, Chapter 425.

[2] It would be apologetic to maintain that the laws concerning Jew and non-Jew were in the nature of revelation similar to the Decalogue and other supposedly revealed laws. It must be remembered that the latter were a product of Palestine. It is but natural that a people living upon its own soil, master of its destinies and unhampered by fear, should develop and maintain the high ideals of revela-

erence for one's own people and country, exhibited by all races at all times.

In our discussion of "Civil Ethics," we have included a few which, strictly speaking, might be said not to belong here. However, they were so closely connected with certain other laws that we did not separate them, deeming their inclusion justified by the additional light which they furnished.

We shall find, as we study these civil laws, that they imply a recognition of the right of the individual to engage in activities conducive to his best interests, provided that such activities do not interfere with the interest of his fellows whose rights are equal. In other words, the underlying principle of the laws in question is Justice.

II. Employer and Employee

In the administration of Justice society finds no more difficult problem than that of labor. The efforts on the part of capital and labor to adjust their opposing claims and to avoid exploitation of the one by the other has often led to bitter struggles, threatening the stability of the social order and calling for the greatest skill in adjustment. Any practical code of laws, therefore, must take cognizance of this very vital problem and endeavor to provide rules or laws, which by serving the best interests of both contending parties, will secure an equitable adjustment of claims, which are opposed in appearance rather than fact.

The following laws from the *Shulhan 'Aruk* illustrate the manner, in which this code applies the principles of justice to the problem in question.

> (a) "If A instructed the agent to hire the laborers for four Zuzs (a Zuz is one-fourth of a Shekel) a day and the agent promised them three Zuzs, and they later wish to claim four in accordance with A's instructions, they are not entitled to more than three, even if the work is worth four, because they were hired for three, and they were satisfied."

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tion. The laws of Jew and non-Jew codified in the *Shulhan 'Aruk*, however, were the product of the Diaspora and were adapted to a period of Jewish life when the nation was without the support of independence. In his helpless situation, the Jew had to avail himself of any means of self-preservation because of the primitive savagery of the attacks upon him. Thus the compiler of the *Shulhan 'Aruk* would have failed ethically, if he had not given practical directions for conduct adapted to the period and to the condition of the Jew.

(b) "If A hires a laborer for one Selah (four Zuzs) and the rate of wages decreases and A manifests displeasure, but the laborer conciliates him and finishes the work, A cannot deduct from the wages, but must pay the amount agreed upon, because the laborer can claim he did better work for A."

(c) "The same rule applies if the rate of wages increases, and the laborer manifests displeasure, but A conciliates him and he finishes the work, he cannot claim afterwards a raise of wages, because A can claim that his conciliation meant only the giving of better board which he did."[3]

(d) "Wages can be collected at the end of the work, and if the employer claims that he paid before the work is finished, he is not believed . . ."

(e) "If a man is hired to write a book containing many sheets, each one is the end, and the employer is believed when he says that he paid at the end of each sheet. This is the law with regard to all work which can be divided. The employer is believed when he says he paid for each part."[4]

(f) 'An employee works in the premises of an employer and demands his wages, but the employer claims that he paid for all the labor or for a part of it. Even if the wages amount to one peruta (in America one cent), which the employer claims that he paid, the employee can receive his wages by holding a holy thing in his hand, such as a Thorah and swearing. Even though the employer is a minor, the employee can swear and receive his wages. (If the employee is a minor or there is a suspicion that he, the employee, is a purjurer, the employer can swear and he is free)."

(g) "If the employer dies, the employee can collect from the heirs, if the claim is made in time for collection."

(h) "When an employee comes to receive an oath, he must be treated cordially and no additional claims can be included in this oath. The judge shall say to him, that he shall not feel pain, but he shall swear and take his money."[5]

(i) "If one gives something to a skilled laborer to repair and it is spoiled, the laborer must pay. . . ."[6]

According to Talmudic laws of labor, the advantage seems for the most part to be on the side of the laborer or employee, with more

[3] Hoshen Mishpat, Chapter 332.
[4] Ibid. Chapter 78.
[5] Ibid. Chapter 89.
[6] Ibid. Chapter 306.

consideration for the unskilled than for the skilled worker. This partiality may have arisen from the experience, which the early rabbis had as workers themselves,[7] which inclined them to the worker's point of view. Nevertheless, it was not the intention that the law should aid the employee to disregard the just rights of the employer. A strict observance of the principles of justice did not permit infringement upon legitimate interests of an employer.

This may be observed in the "a" and "c" laws quoted. Laborers, who had accepted the wage offered by an agent, were not permitted to insist upon more upon the discovery that the agent had been authorized to offer more. Having expressed their satisfaction, at least tacitly, by undertaking the work at a given wage, the performance of it assumed the aspect of the performance of a promise, which, as we have discussed elsewhere, was a duty of the highest importance.

An increase in the rate of wages after a laborer had been hired created a similar situation, governed by the same rule of abiding by the original agreement. A strict balance of justice was maintained by the fact that an employer was not permitted to take advantage of a decrease in rate of wages after employing workmen, as shown in law "b."

These laws, therefore, imply a recognition that the keeping of agreements is essential to the stability of society.

The payment of wages when due was regarded as of the utmost importance. Since laborers work in order to supply themselves with food and other necessities of life, a delay in payment was considered as a deprivation of life. Therefore, it was obligatory to pay for the work upon completion, and the statement of an employer that he had paid previously, received no credence. In such a case, the employee could receive satisfaction by taking an oath.[8]

It seems here that the arrangement was so much in favor of the employee, that every opportunity was offered for him to take advantage of the employer, especially since the latter was not generally permitted to free himself by an oath.[9] However, it must be remembered that the taking of an oath was a serious matter, which was regarded as an

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[7] B. Metzia 48a.

[8] The taking of oaths originated through the practice of legalizing business transactions and court procedure by this means in the absence of written contracts. The Judges spoke in the name of God (Ex. xxii. 7). In doubtful cases the "oath of the Lord" (Ex. xxii. 10) was administered to settle the matter.

[9] Shebuoth 45a.

unpleasant procedure. That this was the case we may infer from Law "i" in which the judge is admonished to show consideration for the employee, who comes to take an oath. Moreover, if there were any reason for suspecting the veracity of an employee, the employer was granted the right of freeing himself. Also it is not reasonable to assume that a laborer would endanger his means of future livehood for the slight gain, which would accrue to him by extorting money for work already paid for.

Generally speaking, skilled laborers appear to have had less consideration than unskilled, perhaps because of the aforementioned occupations of the early rabbis which unintentionally put them less in sympathy with the skilled workman, or perhaps because the latter was supposed to justify his claims to expertness. In any event, the fact that he would have to pay for anything he spoiled would lead to extreme care in his work and thus beget confidence on the part of those who made use of his services.

Reviewing then the representative laws of labor, which we have just considered, we may say that they favored the employee rather than the employer, but despite this, they did not operate in such a way as to infringe upon the legitimate rights of the latter. Moreover, a laborer would be restrained from taking advantage by the bad reputation he would gain and its consequent effect upon his future welfare. In protecting the interests of labor, there was no intention of setting up a dictatorship of the "proletariat" or of instituting an exploitation of "capitalists"; there was solely the desire to establish justice for all.

III. Borrower and Lender

The laws regulating the relations of borrower and lender are unique, for the reason that lending was made a duty superior to charity and no increased returns or interest (See Section on Jew and non-Jew) were permitted to accrue from money lent. However, whereas Talmudic ethics sanctioned consideration of the weaker members of society, in this case, the debtors, any system, whereby the lender would be deprived of his property, was manifestly not in accord with the principles of justice, which formed the foundation for all civil procedure. Thus, the laws, selected from the *Shulhan 'Aruk,* illustrate, making it evident that while a debtor would not be crushed, no false sentiment could be permitted to interfere with the rendering of justice to the creditor.

The following laws have been selected to give a comprehensive view of the relation between borrower and lender.

(a) "One is commanded to lend money to the poor. This is more important than to give charity. A poor relative takes precedence over a poor man of another family and a man of one's native city has precedence over a man from another city. If a rich man needs a loan, it should be made to him, accompanied with good business advice."

(b) "The creditor is forbidden to press the borrower for payment when he knows that the latter has no money. He should even refrain from passing before him, as the debtor naturally feels embarrassed upon meeting the man, whom he is unable to pay."

(c) "The borrower is forbidden to delay payment when he is able to make it."

(d) "The borrower is forbidden to spend money foolishly, which he has borrowed, so that he has no resources, from which the lender can collect. He is extremely culpable if he does this. If the lender knows that the borrower has a bad reputation and has previously borrowed money without paying it back, it is better that he refuse a loan than to lend and then ruin the borrower . . ."

(e) "However, if it is well known that the borrower has money but refuses to pay his debt, the court may arrest him and force him to pay by flogging or other means."

(f) "If the lender goes into court and demands a pledge from the borrower for debt or a cash collection, the court must grant his request. The court cannot take into consideration the fact that the borrower is a poor man and unable to pay, and the lender is a rich man and does not need the money, as no pity can be felt or shown in legal procedure."

(g) "If the lender wishes a pledge from the borrower *after* the loan is made, he may not take it himself. The court must send a court attendant for this purpose. Even this attendant is not permitted to enter the debtor's house to obtain the pledge. However, if he finds anything outside of the house, he may take this for a pledge, which he may take forcibly from the possession of the borrower and give to the lender."

(h) "Food may be taken as a pledge, provided that the

borrower remain in possession of a standard amount."[10]

An interesting ethical attitude, and keen psychological insight are revealed in the first command. *Lending* money to the poor is designated as better than *giving*, for the self-respect and self-confidence of a man, who accepts a loan, are obviously greater, than would be the case, if he were compelled to accept charity. The aforesaid law is based upon the recognition that the kindest and most helpful charity is that which puts the recipient in the way to self-help. The man who borrows, must repay, and hence he is impelled by a desire for good standing to make all possible effort to this end.

The loan to a rich man was no doubt approved on the ground that even a man of means may find himself in temporary difficulties. If he can extricate himself by means of a loan, he is in a position to reestablish his fortune and thus be of substantial aid to his community.

Further it is observed that in lending money, one was commanded to consider the greater claims of kinship and proximity. One was not to search far afield for opportunities to aid, but was to find these opportunities close at hand in one's own family or community.

Sentiment and laws showed consideration for the debtor, who was unable to pay. Thus the creditor was forbidden to use harshness, if he knew the debtor was without money. A wonderful ethical element is embodied in the prohibition to the creditor in regard to passing before the man indebted to him, because by so doing he would cause embarrassment. As we have already stated in another place, putting one's fellow to shame was placed on a par with shedding blood. Here was a case when a man, because of circumstances beyond his control, might suffer keen humiliation, hence, the creditor is admonished to spare him.

On the other hand, a man, careless in regard to his obligations, was the object of reproach and severity. A borrower was commanded not to spend borrowed money foolishly nor to delay payment when he was in a position to make it. Thus there was recognition of the fact that people would loathe to lend money, if borrowers were careless in respect to obligations, hence a sincere and honest man might suffer inconveniences when he needed to borrow, because someone else had failed in his duty. In this connection also, the common sense admonition is given in regard to lending money to one who has a reputation for

[10] Hoshen Mishpat, Chapter 97. See also Ibid. Chapter 17. B. Metzia 71, 75, 105, 113.

laxness in his obligations. We see that a debtor who refused to pay when he was well able to do so, received little consideration, inasmuch as he was liable to arrest and even flogging.

Recalling then the outstanding features of these laws, which derived their authority from Biblical precepts, we observe that they granted a certain degree of protection to the debtor, in forbidding his complete ruin and impoverishment. Nevertheless, the courts were compelled to a strict observance of the principles of justice in considering the claims of the lender.

IV. Protection of Private Property

Stability of society is dependent upon protection of private property. Laws must be promulgated and observed against trespass, vandalism of any kind, and robbery. This assertion is too obvious to require discussion. The laws codified in the *Shulhan 'Aruk* were very strict in maintaining the inviolability of property. As was seen in considering the laws of the borrower and lender, even an attendant sent by the court to collect a pledge for debt was forbidden to enter a man's house for this purpose (See Law "g"). The following law regarding trespass is, in consequence, entirely in keeping with the spirit of the code.

1. *Trespass.*

"Witnesses see a man enter another's premises to take a pledge without permission of the court. He had no parcels with him but upon leaving said premises, it was seen that he carried bundles under his coat, the amount or value of which was not known. The owner of the premises makes a claim for a certain sum as the value of said articles. The alleged robber says, 'Yes, I came to your house, but did not take anything; the articles which I carried out were my own.' Or he says, 'I never was in your home'; or 'I merely took one article.' However, the owner of the premises claims that he took more articles; the witnesses saw some of the articles, but the owner claims that he took even more than the witnesses saw. To all of the above claims, the owner of the premises must swear, holding a holy thing in his hand, and he can receive his entire claim. He is believed only when he makes claims for such things as the owner of such premises is likely to have and which might be carried away beneath a coat."[11]

[11] Hoshen Mishpat, Chapter 90.

Thus anyone, who disregards the law to the extent of entering another's premises, placed himself by so doing under the suspicion of having stolen and had practically no recourse, if the owner of the aforesaid premises gave his sworn statement that articles of a certain value were missing. As a violator of the law, he was in no position to make denials, nevertheless, the strict administration of justice did not permit that he be accused unreasonably. Justice and common sense determined what would be likely to be found on the premises in question, as well as what articles could be carried away.

2. *Damage.* Malicious and intentional destruction of property is universally recognized as anti-social in the extreme. According to the *Shulhan 'Aruk,* even unintentional or accidental damage could not be condoned. Thus the law reads as follows:

> 'It is forbidden to damage another's property (lit., "money"). If one does damage, even if he obtains no benefit from it, he is obliged to pay the full value of the thing damaged. Even if one causes damage involuntarily or accidentally, i. e., if one falls from a roof and breaks a vessel, or stumbles as he walks and breaks a vessel he must pay in full for the thing broken."[12]

A social order, which holds a member thereof strictly accountable for any sort of damage and under obligation to pay for it, although it may be due to misadventure, has little to fear from wanton destruction of property. The law indicates a high regard for justice and points to a degree of public spirit, which would operate to the advantage of any place at any time.

3. *Robbery and Thievery.* The robber and the thief are enemies of society, whose activities must be checked if property is protected. As the laws, which follow, will illustrate, the *Shulhan 'Aruk* designated all appropriation of another's property as robbery or thievery, no matter how small the amount, and sternly forbade any deviation from absolute respect in every way for the possessions of others.

(a) *Robbery.*

> "Thou shalt not withhold anything from thy neighbor nor rob him." (Lev. ix. 13).
>
> "What is robbery? He robs who takes another's money or personal property against his will or who goes into another's possessions and takes vessels without permission, or

[12] Ibid. Chapter 378.

captures cattle and works with them, or eats the fruit from the field."

"It is forbidden to rob or withhold even a little thing, either from an Israelite or Heathen. If it is a little thing for which no one cares, such as a small piece of wood from a bundle or from a fence, taken for the purpose of cleaning one's teeth, this may be permitted. However, religious ethics disapprove even of this."

"It is forbidden to rob even on condition that a better article be given for the one taken. . . ."

"When one robs his companion, even though it be the value of one peruta, it is as if he had killed him."

"If a man is in danger of death and must take an article to save his life, he may do so on condition that he pay for it."

"He who borrows an article without the consent of the owner is considered a robber."

"If a lender seizes an article as pledge for his debt without the permission of the Court, it is considered as robbery."[13]

(b) *Thievery.*

'According to the law of the Thorah, it is forbidden to steal anything, even as a joke or with the intention of returning or paying double for the thing stolen; or to cause suffering. All this is forbidden because no one should get into the habit of stealing."

"Whoever steals, even if it be a thing worth only a peruta, disobeys the law and is commanded to repay. It makes no difference whether one steals from an Israelite or Heathen, from a child or from an adult."[14]

The point, which we wish to stress particularly in regard to these laws is the universality of the prohibition against robbery and thievery, which made them serious offences, irrespective of the victim, the value of the thing taken or the circumstances under which committed; the laws even going so far as to make robbery comparable to murder. The only condition, upon which robbery was condoned, was the seizing of something to defend one's life, and even then restitution had to be made for the thing taken. It is observed, as in a previous section, that trespass was regarded as closely allied to robbery and warning is issued against any attempt to secure illegally a pledge for debt.

[13] Ibid. Chapter 359. See also Sanhedrin 97; B. K. 60; B. B. 88, 119.
[14] Ibid. Chapter 348.

Thievery was likewise not to be committed under any circumstances, even in jest, for apart from other considerations a bad habit might be easily acquired.

4. *Incendiarism.*

> "If a man sets fire to another's premises and thereby destroys everything, the owner of the premises is believed when he swears as to the value of the articles, which belonged to him or were entrusted to him as bailee, and he can receive payment from the incendiary."[15]

Most destructive and dangerous to property is the crime of incendiarism. At the time of the promulgation of the law under consideration, there were no insurance companies, hence a man might be reduced to destitution by a fire. In addition there was, as always in the case of fire, danger to life. In consequence, no limitations were placed upon the owner when he swore as to the extent of his loss and the incendiary was under obligation to make complete restitution.

5. *Summary.* The laws for the protection of private property, therefore, sought to guard against violation, damage, or destruction of possessions in any degree whatsoever, whether intentionally or accidentally. A man could not be despoiled by force of that which was his own, even by process of law. Whoever disregarded the inviolability of another's possessions, either by seizure or destruction, was under obligation to pay in full for the loss or damage sustained.

V. Family Relations

In addition to our discussion of the family ("Marriage") in Part III, Social Ethics, we now wish to consider certain features of the relations involved from the legal standpoint.

1. *Marriage.*

> (a) "If she (the wife) is used to living in a small town, he (the husband) cannot make her move to a big town or vice versa."
>
> (b) "If they are both from one country, she cannot be forced to go with him to another country; he can move from one city to another in the same country, but he cannot force her to move with him from city to village or vice versa."
>
> (c) "Although he may move from city to city or from village to village, he cannot force her to move from a beau-

[15] Ibid. Chapter 90. Comp. B. K. 61.

tiful dwelling to a poor one or vice versa."

(d) "Likewise he must not take her from a place where the majority of the inhabitants are Jews to a place where the majority are heathens."

(e) "If a man of another country marries a woman of this country,[16] even if the countries are different in language, without stipulating where they are to live, she is forced to go with him to his country, or if she does not obey him, she can be divorced and lose the money mentioned in the marriage contract, because she knew that he was not of her country and she agreed tacitly to these conditions."[17]

(f) "If after ten years of married life a couple is childless, he must divorce his wife."[18]

Biblical law stipulated that a husband had three duties to his wife (Ex. xxi. 10). The last of these was the command to fulfil his marital obligations toward her. Evidently as an interpretation of what constituted marital duties in full, the rabbis designated seven additional duties of a husband to his wife (Ket. 46, 47, 48, 51, 52), the gist of which was the protection due her as a weaker member of society. They even went beyond the securing of material protection and gave to the woman the final decision as to the place and character of the home. Thus the husband could not force her to move to a community or to a dwelling which was out of keeping with her mode of life. He could not force her even to move from a poor dwelling to a better one, as this procedure might cause her more responsibility or work than she cared to assume.

It is obvious that Judaism would deplore the transference of the abode of one of its adherents to a locality chiefly inhabited by heathens, which would give particular weight to Law "d." However, there were exceptions, as we see by Law "e," which states that a woman was obliged to go with a man to his own country, if she had tacitly agreed to his mode of life before marriage.

While consideration for the greater difficulties, which women en-

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16 ע' ארצות בא"י חלוקות זו מזו לענין נשואין: יהודה ועבר הירדן והגליל. וכל הישוב הוא ארצות כנון ארץ כנען וארץ מצרים וארץ תימן. (שם ע"ה)

17 Eben Haezer, Chapter 75.

18 Ibid. Chapter 154. Laws concerning a woman who is incapable of bearing children or has any other deformities of body, see ibid. Chapter 117.

counter in life, marked the majority of the laws, we find an element of harshness in the last of the laws quoted. There is no question that it was promulgated because of the belief that marriage had as its main justification the propagation of the race. Nevertheless, in our opinion this is a weak point in the law, which if strictly observed, must have led to the separation of husband and wife, who truly loved each other and were mutually helpful. It is a matter of conjecture, also, why ten years were set as the limit of a childless marriage, inasmuch as numerous cases occur where a couple is without children for ten years or even more and then have several. It seems, therefore, that there is here a departure from the usual high regard for justice.

2. *Parents and Children.*

"It is forbidden to smite one's parents . . . and he who violates this law and wounds them until he sheds their blood, is subject to execution."

"If a man slanders his parent by words or actions, he will receive curses from the Lord and the Court has the right to punish him with flagellations according to his deserve."[19]

"If a father smite his son who is over twenty-two years of age, he (the father) can be excommunicated by the court . . ."[20]

Based upon Biblical commands (Ex. xxi) slandering or striking a parent so as to shed blood, was punishable by death. The shedding of blood of a parent especially was regarded as so terrible that we read in another place, that a son was to avoid, if possible, the extracting of a thorn from his father's hand, lest blood be shed (Yoreh Deah, Chapter 241).

The severity of the laws is entirely in keeping with the high honor accorded to parents, which we discussed in Part III, Social Ethics. Also they can be paralleled by codes existing among other peoples, where parents and forefathers are held in reverence.

However a father was not permitted a high-handed disregard of the dignity of his son, hence the threat of the excommunication of the Court for failure to respect this dignity.

VI. Jew and Non-Jew

From our treatment thus far, it will be evident, that our work is in

[19] Yoreh Deah, Chapter 241.
[20] Ibid. Chapter 240.

no sense apologetic. In order to do justice to our subject, it has been our endeavor to present impersonally various outstanding features of the code under consideration, indicating underlying ethical principles or stating frankly anything which we interpret as a departure from high ideals.

The attitude of the Jew toward the non-Jew has been distorted and misinterpreted, just as the term "Akum"[21] has been misinterpreted in applying it to Mohammedans, Gentils, or any non-Jewish people. As stated in the introduction to Part IV, the attitude of the Jew toward his non-Jewish neighbor was all too frequently determined by the hostile attitude of he latter, which necessitated caution and evasion on the part of the former. We believe the following laws will show that no unfair discrimination was made against the non-Jews, nor anything practiced to despoil or destroy him. Here, as elsewhere, the promulgators of the laws were animated by a high sense of jutsice to all.

We shall now proceed to discuss certain laws codified in the *Shulhan 'Aruk*, representative of the attitude of the Jew toward the non-Jew or Akum (Heathen), beginning with a consideration of interest or usury.

1. *Interest or Usury.*

> "It is permitted by the Thora[22] to lend money on interest to a Heathen, but the rabbis prohibited even this, unless it was a question of life or handled by a learned man . . . and now it is permitted in all cases (with the Heathen). It is also permitted to lend money on interest to an apostate Jew, but one may not borrow from him on interest. There are some who maintain that the law prohibiting interest must be strictly observed even in regard to an apostate."[23]

From a modern standpoint, interest means a legitimate premium paid for the use of money, whereas usury denotes a rate of interest in excess of that permitted by law. Biblical law, in forbidding any "increase" for the use of money, made thereby all interest usurious. From the standpoint of Jewish law, therefore, "interest" and "usury" may be regarded as synonymous terms.

As far as relations between Israelites were concerned, there is noth-

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[21] The term "Akum," עכו"ם, is an abbreviation formed by the initial letters עובד כוכבים ומזלות, i. e. "worshippers of the stars and planets," hence heathens.

[22] Lev. xxv. 37.

[23] Yoreh Deah, Chapter 159.

ing to discuss in regard to interest or usury. It was absolutely forbidden. As we have seen in the laws of borrower and lender, the lending of money was a duty, superior to the very important duty of charity, but there was no question of taking interest. This gives evidence of a high moral standard, since business could be transacted on this basis.[24]

Whereas the Thorah perimtted money to be lent on interest to a Heathen, there was a tendency to discourage even this as we see from the *Shulhan 'Aruk*. This may have arisen from the feeling that if the taking of interest from a fellow Israelite was a bad practice, it was likewise objectionable in dealing with a Heathen or apostate. Again, there may have been the fear that the practice of taking interest from a Heathen would lead to the taking of it also from Israelites, which view is expressed by Maimonides.[25]

Despite the disapproval of all money transactions involving the taking of interest, the Jews were practically forced into the practice, if they had any business dealings with their neighbors. The practice was general among all people around them, and any contact with the outside world had to be on the basis of the system in vogue. Thus the permission to charge a Heathen interest implied no discrimination of a derogatory character, but merely an acceptance of business standards as they existed among others.

In the same way, business conditions are such in the modern world that no Jew could possibly live up to the code of earlier days. Investments and various features of banking make the taking of interest inseparable from modern business. Even in Palestine, new conditions are rapidly giving rise to new observances, which must in time lead to a new code.[26]

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[24] Not only was the taking of direct interest forbidden, but the Talmud even prohibited any transaction which could develop into usury (Mishnah B. Metzia 59b; Gemara 62, 64, 66).

[25] Yad, Malveh, Chapter 5.

[26] In the Middle Ages the Church declared the taking of interest upon a loan to be contrary to divine law, hence the popes held that usurers were liable to excommunication. With this state of affairs, Christian rulers found it very convenient to turn to the Jews, who were not subject to the Church. The opportunity was thus offered to the Jews of lending money at a high rate of interest. In fact it was forced upon them because their position was so insecure that they could not be certain of holding any large amount of property for any length of time. If it was not seized by an avaricious monarch during their life, it almost certainly fell into his hands at their death, as in case of Aaron of Lincoln in England, Ezonel

2. Sale or Rent.

"One should not sell nor rent to three Heathens in a Jewish section, but it is permitted to sell or rent to one or two all that is wanted without fear that it may be sold again or rented to others. This applies only to places where natural resources are developed or something of a similar nature, but not to a dwelling, because he (a Heathen) brings in his idols. Now it is permitted to rent even a dwelling, because idols are not brought in."[27]

One can see that in the early days, the chief objection to the rent or sale of buildings to Heathens arose from the bringing in of idols, which might well be felt to desecrate the places they occupied, for to the Jew nothing was so abominable as idols, that diverted from the service of the true God.[28] Also it is very unlikely that the Jews, because of their superior education, did not care to associate with Heathens. Moreover the latter gave so much evidence of being addicted to unnatural practices and licentiousness (Ab. Zarah ii. 1; Ket. 3b), that it is extremely probable that the Jews did not care for the introduction of such an undesirable element into their communities. They had every ethical justification for this, as the moral standard would be lowered, and an influence would be introduced, particularly harmful to the younger generation, since the acquiring of vice is much easier than the acquiring of virtue—a fact, concerning which the Jews had sufficient experience in their own land as well as in exile.[29] From all these considerations, it is obvious that a code, which warned against such evil consequences was merely fulfilling an ethical obligation in so doing.

However, if some natural resources such as a mine, אוצר, was to be exploited, Heathens were permitted to come for this purpose. The Jew deemed it unethical to permit a natural resource to be undevelopd,

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de Ablitas in Navarre, Heliot de Vesoul in Provience, and Benveniste de Porta in Aragon, etc. We have here an interesting inconsistency on the part of the popes, who punished the minor usurers but winked at the wholesale appropriating of a king. See *Burke, W. R.*, History of Spain, Vol. II, Longman's Green, & Co., Aberdin University Press, 1900, p. 120

[27] Yoreh Deah, Chapter 151.

[28] "Whosoever recognizes idols has denied the entire Thorah; and whosoever denies idols has recognized the entire Thorah." (Sifre, Deut. 54 and parallel passages). "As soon as one departs from the words of the Thorah it is as though he attached himself to the worship of idols." (Sifre, Num. 43).

[29] See *Mader E.*, Die Menschenopfer der alten Hebraer und der benachbarten Volker, 1909.

because he was unable to do it, while a Heathen was ready and able to undertake the exploitation.

As time passed and Christianity and Mohammedanism developed, still further concessions were made. The representatives of these faiths did not bring in idols, and moreover their moral standard and education were such as to remove the stigma of being undesirable elements in a community.

3. *Redeeming Palestine.*

> "It is permitted to buy a house in the Land of Israel from a stranger or foreigner (נכרי) on the Sabbath, going through the entire legal procedure. This was permitted by the rabbis for the purpose of redeeming the Land of Israel" (Palestine).[30]

Patriotism is the basis for this law. The redemption of Palestine has been the supreme desire of the Jew through the ages since the expulsion. In fact the Jew has never permitted himself to be completely severed from his beloved land. There have always been Jews in Palestine, sometimes very few, sometimes moderately large communities. Thus the Crusaders found Jews, the majority of whom they massacred.

For the Jew in exile, Palestine was the point toward which his thoughts and desires turned, just as he turned and still turns toward that land, three times a day in prayer. Numerous rites, in which the name and remembrance of Jerusalem were interwoven, kept alive in his heart the yearning for the Holy Land where he would fain end his days. Many a Jew, granted the privilege of a brief sojourn there, brought thence, since he could not remain, a small portion of the holy ground to be placed under his head at death. And when his body was interred, it was laid with the head toward Palestine.

But although the Jew sought thus to bind himself to the land of his forefathers and deemed it a privilege if his body might rest there after death, his thoughts concerning it were not solely connected with death, and he did not return merely to die. Rather he thought of life, of a future redemption of his land, and he returned in order to create. Thus we find that the best of the post-Talmudic literature, not to mention, of course, the pre-exile literature, was a product of Palestine. Here developed mysticism and originated Chasidism. Even the Talmud Babli, strictly speaking, is of Palestinian origin, and while it reflected

[30] Orah Hayyim, Chapter 306.

the life of Babylon, it was developed and applied under the influence of Palestine. The *Shulhan 'Aruk* itself, as we have indicated, was compiled in Palestine.

It is noteworthy also that everything created in Palestine was universally accepted, whereas even the best work produced in exile was of secondary rank and failed of general acceptance.

In view of the sacredness of Palestine to the Jew, it is very clear why he was permitted, even on the Sabbath, to aid in the redeeming of the Holy Land. From his standpoint, the Heathen with his idols or his mode of life, defiled the Land continually. Yet he did not seek to reclaim it through deceit, treachery or bloodshed, but through peaceable means of purchase. His patriotism has been and is of a high order. For him the very stones of his land bear witness of a glorious past and inspire him to hope for a glorious future, helpful not only to the Jew but to all mankind. Surely his efforts at redemption through legal and civil procedure were justifiable, praiseworthy, and hence highly ethical.

4. *Employment of Physician.*

> "Any wound or sickness that is dangerous and for which it is permitted to break the Sabbath in order that it be cured, must not be treated by a Heathen, who is not a recognized specialist, for fear that he might shed blood. Even if there is danger of death one must not be treated by him, but if death be certain, then one may be treated by him. If he says that a given treatment is good or bad, his statement can be relied upon, but one must not take this treatment from him. But if he (an established doctor) does the work for pay, then it is permitted in every case, for he would fear to lose his remuneration."[31]

The prohibition against treatment by a Heathen, who was not a recognized specialist, arose from the fact that such practitioners were found chiefly among the Heathens. as a rule, Jewish doctors were specialists. Moreover, their moral standard was so high, that they would not dream of undertaking any treatment, unless they were skilled, for failure to treat a patient correctly was put on a par with shedding blood. Among the Heathens this was not the case, and many Jews fell victims to self-styled doctors. Fulfilling its purpose as ever, the *Shulhan 'Aruk* gave warning against the non-specialist, with an added

[31] Yoreh Deah, Chapter 155.

caution, that though he might correctly designate a treatment as good or bad, it should not be taken from his. However in case where death was certain, it was permissable to make use of any possible means of help.*

No discrimination was made in regard to an established Heathen doctor who was paid for his services. Since he was established or legally recognized, he could not risk the loss of his reputation by a disregard of the ethics of his profession.*

5. *Protective Measures.*

> "If one meets a Heathen on the road armed with a sword (on his left), the Jew should have him pass on his right. But if the Heathen have a staff or stick, then he (the Jew) should have him pass on his left. If they ascend or descend, the Jew should not be below and the Heathen above. A Jew should never bend down before a Heathen. If a Heathen asks a Jew where he is going, and he is going one mile, he should say two."[32]

In the rules laid down for association of the Jew with the Heathen, the *Shulhan 'Aruk* amply justified its appellation as "Teacher of Knowledge" and wise counselor for the "Path of Life." Continual persecution of the Jews, which even down to a recent date took the form of sudden and unprovoked attacks, necessitated their being constantly alert and on their guard. Hence the *Shulhan 'Aruk* fulfilled a duty in giving practical instructions for self-preservation. The fact that such laws had to be promulgated and codified give significant testimony as to the deplorable plight of the Jew. He lived constantly in a state comparable to war. Just as a soldier does not trust his enemy or the police take no chances with dangerous criminals, the Jew had to be ever on his guard against a surprise attack.

The directions given for his protection were practical in the extreme. For example, he is told to have a Heathen armed with a sword pass on his right. This enabled the Jew to detect any movement to draw the weapon and put him in a position better to defend himself.

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* Compare the Bull of Innocent iv (1250): "They the Jews might not associate with the Christians, live under the same roof with them, eat and drink with them, or use the same bath; neither might the Christian partake of wine which had been prepared by Jews. The Jews might not employ Christian nurses or servants, and Christians might use only medicinal remedies which had been prepared by competent Christian Apothecaries . . . " (Jewish Encyclopedia, Vol. xii, p. 489).

[32] Ibid. Chapter 153.

Similar precautions governed the direction, when the Heathen had a stick or staff, which he would as a rule hold in his right hand. Never did the Jew dare to permit a Heathen to have the advantage of him either by standing below him upon the stairs or by assuming some incautious posture, giving opportunities for attacks, which a Heathen must have seized upon every possible occasion. As to the misrepresentation concerning the length of a journey, this cannot be criticised as an unethical violation of sincerity, since a state of war renders justifiable a departure from veracity.

6. *Practice of Benevolence.*

> "One is not allowed to give anything gratis to a Heathen, whom he does not know. However it is permitted to support their poor, to visit their sick, to bury and bemoan their dead and to console their mourners—on account of peace."[33]

The prohibition with which this law begins against gifts to a Heathen, who was a stranger, was a precautionary measure. The stranger might infer that the generous Jew was a man of great wealth and watch for an opportunity to kill him or at least despoil him of his property.

Yet in spite of this and other cruel persecutions visited upon the Jew, and the necessity under which he lived of being constantly on his guard against a sudden attack upon his life, nevertheless, we find that his law permitted him to extend aid and comfort to the sick and afflicted of his enemy. It is a question, whether a more ethical attitude can be found elsewhere. The most exalted sentiments of Christianity as well as Judaism find their origin in the precepts to do good to one's enemy. When an enemy has been as cruel and implacable as the enemies of the Jews, returning good for evil becomes an almost superhuman virtue. Nevertheless, the law under consideration has been no empty, disregarded phrase, for the Jews have practiced and still practice the virtues indicated therein.

Does the final statement that these things be done "on account of peace"[34] detract from the ethical significance of the admonitions?

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[33] Ibid. Chapter 151.

[34] See *Lippe K.*, Die Gesetzsammlung des Judenspiegels, Jassy 1885, p. 195; *Hoffmann D.*, Der Schulchan Aruch und die Rabbinen uber das Verhaltnisz der Juden zu Anderoglaubigen, Judischen Presse, Berlin 1885, p. 40; *Lazarus M.*, The Ethics of Judaism, Part I, The Jewish Publication Society of America, Philadelphia 1900, pp. 237, 242-244.

We believe not. The promotion of peace is in itself a virtue. And how will peace be secured? In the first place the poor or unfortunate, seeing that some one takes note of their suffering, will not so easily be stirred to rebellion against society. Likewise the returning of good for evil sometimes causes shame to the evil doers and a consequent cessation of vicious practices. In furthering peace, therefore, the Jew serves the best interests of society.

VII. Summary

Justice, sometimes designated as the chief of all altruistic virtues, is defined as "the rendering to everyone his due." This virtue finds striking exemplification in the civil laws, codified in the *Shulhan 'Aruk*. The laws of labor enjoin a return for services and an observance of agreements and definite understandings. In the relations between borrower and lender, true impartiality must be observed, which assures to the latter his due, although he is enjoined to refrain from pressing his advantage. The laws for the protection of property guard the inviolability of possession by assuring reparation for injury or destruction. In family relations, the wife, as the home maker, is permitted to have chief determination as to what the home shall be; while parents and children are enjoined to a mutual respect of dignity in refraining from violence. The laws which have reference to the non-Jew make no discrimination in the rendering of justice. Any special laws have to do either with a difference in custom of the Jew and his neighbor or were necessitated by the hostility of the latter.

With practically no exception, the rendering of strict and impartial justice to all is universally enjoined.

PART V

GENERAL SUMMARY

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IN this dissertation we have discussed the underlying ethical principles of representative laws codified in the *Shulhan 'Aruk* from the standpoint of Individual, Social, and Civil ethics.

In the first of these, we discussed the duties of worship, self- preservation, self-cultivation, and self-direction. Worship found expression in service of God through regular and occasional prayers of praise or thanksgiving. Self-preservation was maintained through the observance of sanitory laws considerably in advance of the time. Directions for life-long study led to a high standard of self-cultivation and a deep respect for wisdom. Through directions for control and choice of conduct, the code becomes a guide for self-direction.

As life finds its best and fullest expression in association with others, the Jew was admonished to seek the society of his fellows in order that he might render thereby service to others. This service was to find expression in refraining from conduct, which might be displeasing or cause inconvenience to one's neighbor, and in the more active manifestation of this virtue, by acts, which contributed directly to the welfare of society. In the first instance, the Jew was to comport himself at the table with due regard for the fastidiousness or comfort of his table companion, and further he was to observe a high degree of consideration for his host and even for the servants.

In serving society more actively, he was enjoined to the duty of marriage for racial propagation, of maintaining a harmonious family life, the manifesting of respect to teachers and learned men, the giving of charity to the needy, and the scrupulous keeping of his word. The duty of strict observance of the Sabbath as a day of rest, to which the Jew was enjoined, made for peace and serenity through a quiet contemplation of the things of the mind and the spirit.

The keynote of the laws of the civil code was the rendering of justice to all. The laws of labor enjoined due recompense and the observance of agreements. The laws of borrower and lender assured

justice to both, without destruction of the former or loss to the latter. Protection of property was assured through laws which commanded regard for another's possessions and promised indemnity for loss or injury. Legitimate rights in family relations were protected, whereby each member was assured that his personal dignity would be respected. The laws governing relations with non-Jews permitted no deviation from justice and gave advice, which was but needful in order that the Jew would not fall victim to hostility and treachery.

R. Simeon ben Gamaliel says, "The world rests upon three things: Justice, truth, and peace." (Aboth i. 18). Thereby he voices the spirit of Jewish ethics as exemplified by the laws, which we have selected from the code of the *Shulhan 'Aruk*. These laws enjoin justice to all men, irrespective of race or condition, truth to oneself and one's fellows by promotion of the best interests of all, peace, by service to mankind, regard for the things of the spirit, and worship of God. The *Shulhan 'Aruk* points the way to an exalted, though not impracticable, idealism for guidance on the "Path of Life.'

The importance of this code in its influence upon the Jewish people can scarcely be overestimated. Beginning with the activities of the first moments of rising, it was a guide to man in every act of daily life, no matter how apparently trivial such a given act might be. Therefore, it came into constant, daily use in the majority of Jewish homes, for there was scarcely a Jew who was unable to read Hebrew, and the simple form of the code made it easy of comprehension.

Thus the life of a devout Jew became an exemplification of the law of Judaism or, as he believed, of the law of God. When he washed his hands, dressed himself, prepared his food, seated himself at the table, greeted his associated, or when he went to his business or entered the synagogue, he felt that he was acting at all times in accordance with precepts laid down by God. Because he acted constantly according to the will of his God, an atmosphere of service was created, which set the Jew apart and made his life a life of worship and reverence rather than a series of commonplace events. Thus holiness was the *summum bonum* of his entire existence. This conformity to law and the belief in the direct supervision of the Almighty acted as powerful agents in preserving the integrity of the Jewish people, which maintained its solidarity in spite of bitter persecution. As the laws of hygiene guarded the health of the people, so the spiritual laws sustained the moral stamina

and implanted a strong feeling of racial unity, which even after many years and many wanerings, finds present day expression in numerous phases of Judaism. This important service to the Jewish people could never have been performed by the Talmud, because of its extent, difficulty and scattered arrangement. Only a code easily accessible and easily understood was able to preserve Judaism. Finally, the *Shulhan 'Aruk* has great historical significance, inasmuch as it is practically a mirror of Jewish life of an earlier day, which in certain regions has not yet entirely disappeared.

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